
Introduction

4.1 With the human Specified Bovine Offal (SBO) ban in place, the Government had completed the two major measures that were designed, as a matter of precaution, to provide protection against a risk to human health that most believed to be very unlikely to exist. In this chapter we examine issues affecting human health in 1990. We do so by reference to four main topics. The first two of these relate to two reactions to the SBO ban. Our third main topic describes how the UK responded to issues raised by the EC. Our final main topic comprises the increasing public concern about risks to human health from BSE, and the response to that concern.

4.2 The first reaction to the SBO ban was one that had not been anticipated by MAFF. Because brain was now an SBO, the SBO Regulations contained a provision that a head that contained the brain could under cover of a movement permit be transported, unstained, to a head boning plant for the recovery of head meat. Otherwise the brain had to be removed at the slaughterhouse, and disposed of as an SBO, before the head could leave the slaughterhouse. This had disadvantages. Some butchers who sent cattle to be slaughtered required the head to be returned to them so that they could remove the tongue and head meat. This was no longer permitted by the Regulations, so long as the brain remained within the head.

4.3 More generally, renderers, whose clients were demanding that meat and bone meal (MBM) should not contain SBO, no longer welcomed heads containing brain. As a result, a practice rapidly developed at many slaughterhouses of splitting the skull and removing the brain. The head could then be disposed of free from the taint of being an SBO. In this chapter we consider the problems of contamination to which this new practice gave rise, and what was done about it.

4.4 The other reaction to the SBO ban was a more general concern about the risk that slaughterhouse practices would result in the contamination with SBO of those parts of the animal that were destined for the human food chain. In particular, there was a concern about the possible contamination of mechanically recovered meat (MRM). In this chapter we shall see how these concerns were addressed. The practice of rendering and details of slaughterhouse practices are discussed in vol. 13: Industry Processes and Controls.

1074 The European Union (EU) came into existence on 1 November 1993 as a result of the Maastricht Treaty. It incorporated but did not replace the European Community. Throughout the volumes of this Report the term EU is generally used for consistency's sake (even if sometimes chronologically incorrect), except where specific reference is made to the functions conferred by the European Community Treaty or to its legal effect.
4.5 In both instances, advice was sought from the new Spongiform Encephalopathy Advisory Committee (SEAC), whose role in the BSE story is considered in detail in vol. 11: *Scientists after Southwood*. SEAC’s assistance was also sought in relation to public concerns about the safety of beef that were aroused when it became known that a cat had succumbed to a spongiform encephalopathy. The significance of this cat (and others that also succumbed) is an important aspect of the increasing public concern discussed in the fourth main topic that we propose to cover in this chapter. This is preceded by our third main topic, the UK’s response to EC consideration of nervous and lymphatic tissue.

4.6 Before we examine these main topics, we give an overview of events in 1990 and provide brief accounts on a number of relevant issues in order to set the scene. First, we look at initiatives related to food safety that Mr John Gummer introduced shortly after he became Minister of Agriculture, Fisheries and Food in July 1989. Second, we briefly describe the integration of veterinary and policy advice within MAFF during 1990, leading to the creation of a combined Animal Health and Veterinary Group (AHVG). Third, we examine meat hygiene legislation, discussing evidence that suggests there were problems with poor hygiene standards in many slaughterhouses, and we look at how the Food Safety Act 1990 led to additional requirements in slaughterhouses. Fourth, we briefly describe some general aspects of the SBO ban in 1990. These are the additional requirements placed upon slaughterhouse operators by the SBO ban, the extent to which the SBO ban was monitored during 1990, practical concerns about the SBO ban and guidance that was given by MAFF.

**Overview of the events of 1990**

4.7 The Tyrrell Report on research into spongiform encephalopathies was published at the beginning of 1990, and an SBO ban for human food was introduced in Scotland and Northern Ireland.1075

4.8 On 3 February 1990, the *Veterinary Record* published the preliminary results from two MAFF-funded research projects into the transmission of BSE. The first project was Professor Richard Barlow’s1076 work on dietary transmission of BSE to mice.1077 The second project was the work of the Central Veterinary Laboratory (CVL) into the transmission of BSE to cattle by inoculation of infected brain material.1078 The presentation of these results is described in our fourth topic below, where we look at public concerns during 1990.

4.9 The Institute of Environmental Health Officers (IEHO) wrote to MAFF’s Animal Health Division on 1 February 1990 explaining the difficulties that Environmental Health Officers (EHOs) were having with the interpretation, compliance, and enforcement of the 1989 SBO Regulations.1079 On 9 April representatives of the IEHO and the Meat Hygiene Division met to discuss these concerns.1080 These difficulties and the ensuing meeting feature below in our
introductory description of general aspects of the ban, and in the sections dealing with our first two main topics (problems of brain removal, and concerns about contamination from other slaughterhouse practices).

4.10 As noted in Chapter 2, from 14 February 1990 compensation payable in Great Britain on the slaughter of an animal affected with BSE was increased to 100 per cent of the sound market value of the animal.\textsuperscript{1081}

4.11 On 10 May 1990, MAFF issued a news release announcing that a spongiform encephalopathy had been diagnosed in a cat.\textsuperscript{1082} Following an intensive media reaction, the Minister of Agriculture announced on 15 May that ‘British beef is perfectly safe to eat.’\textsuperscript{1083} The following day the Chief Medical Officer (CMO), Sir Donald Acheson, stated that ‘British beef can be eaten safely by everyone.’\textsuperscript{1084} SEAC held an emergency meeting on 17 May 1990 at which it confirmed it would endorse the CMO’s statement that British beef could be eaten safely.\textsuperscript{1085} We deal with these events in our fourth main topic for this chapter, public concerns about the risk to human health; they are also dealt with in vol. 11: Scientists after Southwood.

4.12 On 16 May the House of Commons Agriculture Committee decided to undertake an investigation into BSE.\textsuperscript{1086} During May and June it received evidence from Ministers, various officials and interested parties. Its report was published on 10 July. Different aspects of their deliberations and report feature below in our introductory description of general aspects of the ban, and in the sections dealing with each of our first, second and fourth main topics.

4.13 The Committee’s report set out the background to the Inquiry:

Considerable public anxiety had been generated about the disease and, in particular, the possibility that it could be transmitted from cattle to humans. Our intention was to gather the relevant evidence and present the House with an early assessment of the available facts.

The circumstances of the inquiry bore many resemblances to our 1989 inquiry into salmonella in eggs. Allegations and counter-allegations were rife, public anxiety was being fanned by sensationalist reporting and there was a lack of confidence, in some quarters, about reassurances offered by Government Ministers. But there was one important difference. With salmonella, controversy focussed on the extent of the threat to human health; with BSE, on whether there was any threat at all. This inevitably gave the inquiry a rather hypothetical flavour and ensured that its centrepiece would be the arguments between different scientific experts.\textsuperscript{1087}

4.14 The main task the Committee set itself was to ‘allow a public ventilation of the main scientific issues and reach an interim conclusion on the issue of greatest public concern – is beef safe?’\textsuperscript{1088}

\textsuperscript{1081} Compensation was subject to a ceiling. It could not exceed the average price based on the returns for sales of commercial grade Friesian cows and heifers in milk and in calf. Further details are in Annex 1 to Chapter 2, which also notes that a similar increase took place in Northern Ireland from 1 May 1990 onwards

\textsuperscript{1082} YB90/5.10/2.1

\textsuperscript{1083} YB90/5.15/4.1

\textsuperscript{1084} YB90/5.16/1.1

\textsuperscript{1085} YB90/5.17/26.1; YB90/7.24/3.1

\textsuperscript{1086} IBD1 tab 7 p. ix

\textsuperscript{1087} IBD1 tab 7 p. ix

\textsuperscript{1088} IBD1 tab 7 p. ix
On 8 June the European Commission issued Decision 90/261/EEC affecting the health certificates required in order to export beef from the UK to other member states. In the case of fresh bone-in bovine meat, this could not be exported unless the health certificate stated that the meat was derived from bovines which were not from holdings where BSE had been confirmed in the previous two years. In the case of fresh boneless bovine meat, export was not permitted unless the health certificate stated that during the cutting process obvious nervous and lymphatic tissue had been removed.\textsuperscript{1089} We deal with this Decision in our third main topic below.

SEAC held its third meeting on 13 June and produced advice on head-splitting. At its fourth meeting on 2 July SEAC agreed its draft letter and supporting paper to the CMO on the safety of beef. The letter and supporting paper were sent to the CMO on 24 July. These matters are dealt with in our first and fourth main topics below.

On 23 August Dr Hilary Pickles (Principal Medical Officer, DH) reported to Sir Donald Acheson that a pig inoculated with BSE (by various routes) under experimental conditions had been diagnosed with a spongiform encephalopathy.\textsuperscript{1090} This was discussed by SEAC at its fifth meeting on 19 September.\textsuperscript{1091} MAFF announced the results of the pig experiment on 24 September 1990, at the same time as it banned the use of SBO in all animal feed (discussed in more detail in vol. 5: \textit{Animal Health, 1989–96}).\textsuperscript{1092} We deal with this in our fourth main topic below.

SEAC met again on 1 November 1990. It discussed, among other things, a paper by MAFF on slaughterhouse practices that considered carcass-splitting, MRM and use of pithing rods.\textsuperscript{1093} We deal with this in our second main topic below.

The Government’s response to the Report of the Agriculture Select Committee on BSE was published on 21 November 1990. We deal with this in each of our first, second and fourth main topics below.

It is convenient to mention here some changes to the role of individuals in MAFF and DH during the period covered by this chapter.

\textbf{MAFF:}

- Mr Mike Griffiths was Head of the Meat Hygiene Division of MAFF until September 1990, when he was replaced by Mrs Jane Brown.
- Mr John Maslin was Head of the administrative branch within the Animal Health Division dealing with notifiable and non-notifiable diseases until April 1990, when he became Head of the newly created BSE branch.
- Mr David Kyle retired as ACVO responsible for notifiable diseases in April 1990, when Mr Derek J Evans, Assistant Chief Veterinary Officer (ACVO) responsible for Animal Welfare, took on his responsibilities.\textsuperscript{1094}
4.22 DH:

- Mr William Waldegrave succeeded Mr Clarke as Secretary of State for Health in November 1990. A few months earlier, in May 1990, Mr Stephen Dorrell succeeded Mr Freeman as Parliamentary Secretary (Commons).

- In July 1990 Mr Thomas Murray took over from Dr Pickles as Joint Secretary to SEAC; Dr Pickles continued to act as professional assessor/adviser. 1095

**Food safety initiatives by Mr Gummer**

4.23 Shortly after Mr Gummer’s appointment as Minister of Agriculture, Fisheries and Food in July 1989, he introduced a number of initiatives relevant to food safety matters within the Ministry. Below, we look at those initiatives relevant to the BSE story.

4.24 First, he established a clear division, amongst his junior Ministers, between consumer interests and the food, farming and fishery industries. Mr David Maclean was made Minister for Food Safety with responsibilities for food safety and regulation, food science, animal health and welfare, animal medicines, meat hygiene, pesticide safety, biotechnology issues and emergency services. As Food Minister, Mr Maclean was to be responsible for consumer interests. Mr David Curry was made Minister for Farming, Fisheries and the Food Industry with responsibilities for farm production, trade in agricultural commodities, food industry matters, external trade policy, and EC matters. 1096

4.25 Second, Mr Gummer promoted the principle that the customer and the consumer came first. 1097 He sought to implement this principle by setting up the Food Safety Directorate to divide food safety from food production within MAFF, and the Consumer Panel with the aim of giving customers a direct means of conveying their views on food safety and consumer protection to MAFF. 1098 The Consumer Panel was to be chaired by the Food Minister, and to comprise representatives of consumers nominated by the main consumer bodies. The Panel was to provide ‘a more formal and systematic means of maintaining contact between MAFF and the consumer organisations’. 1099 Both of these initiatives were announced by a MAFF press release on 2 November 1989, in which Mr Gummer said:

> The Food Safety Directorate, together with the new arrangements for bringing to bear more directly and systematically the views of consumer organisations, will strengthen my Department’s organisation for dealing with food safety issues. 1100

4.26 Third, in relation to disclosure of information on food safety, Mr Gummer sought to promote a policy of openness. He told the Inquiry: ‘I was determined to
adopt a practice of completely sharing all the information available on food safety issues.’1101 On BSE, Mr Gummer set out to be:

utterly open with the public who were to know all that we knew. We would seek to present that information in a manner that neither underrated the concern nor sensationalised it. Openness of this kind gives the consumer the opportunity not only to make up his own mind on questions such as ‘Is beef safe?’ but also enables him to judge the adequacy of the government’s response and the measures taken.1102

4.27 Fourth, Mr Gummer established the principle of making available to the public the results of all research into BSE as the results emerged. He established this principle at the end of January 1990 during discussions with MAFF officials on the presentation of results on transmission research which were announced by means of a MAFF press release on 1 February 1990 (discussed further in our third main topic below).1103

Creation of the Animal Health and Veterinary Group (AHVG)

4.28 Until 1990, the organisational structure at MAFF was that officials responsible for policy on animal health formed the Animal Health Group headed by an Under Secretary (Grade 3), while the State Veterinary Service (SVS), headed by the Chief Veterinary Officer (CVO), was part of the Agricultural Development Advisory Service (ADAS). This organisational structure, and the responsibilities associated with it, are described further in vol. 15: Government and Public Administration and vol. 14: Responsibilities for Human and Animal Health. Here we note that Mr Alistair Cruickshank (Under Secretary, Animal Health Group) described how the CVO was line-managed by the Director of ADAS, but on policy would (in parallel with the Under Secretary in charge of the Animal Health Group) be supervised by the (Grade 2) Deputy Secretary, Land and Resources. Mr Cruickshank added that the CVO always had the right of direct access to the Minister.1104

4.29 The organisational structure changed during 1990, when the SVS (except the CVL) merged with the Animal Health Group. The merger was designed to integrate the two parallel hierarchies (SVS and Animal Health Group) into a new Animal Health and Veterinary Group (AHVG). Mrs Attridge, Mr Cruickshank’s successor, believed that the merged AHVG

brought the veterinarians much closer to the administrative part of the complex in that they were both reporting to the one grade 2 . . .1105

4.30 Mr Kevin Taylor told the Inquiry that this process was never completed.1106 In particular veterinarians in the Notifiable Diseases Section, which had assumed responsibility for BSE when the disease was made notifiable in November 1998,
continued to be a separate team of SVOs reporting to Mr Kevin Taylor, who in turn reported to the ACVO responsible for notifiable diseases (Mr Kyle until he retired in April 1990 when his responsibilities were taken on by the ACVO already responsible for animal welfare, Mr Derek J Evans).\textsuperscript{1107}

**Red meat and the protection of public health**

**System for the protection of public health**

*4.31* Vol. 14: *Responsibilities for Human and Animal Health* covers in detail the conventional and statutory responsibilities of various Government Departments and enforcement authorities for the protection of human health, and should be referred to for more detail on the topics covered in this section. For convenience, annex 1 to this chapter sets out some of the material from that volume on unfit meat and human food. In this section we summarise the division of responsibilities between the various departments to act and legislate for the protection of human health. We also describe the arrangements for the monitoring and enforcement of such legislation.

*4.32* The main concern of this chapter is the safety of human food. UK legislation on food has two principal aims: the protection of the consumer’s health and the prevention of fraud. These aims are achieved by a combination of primary legislation containing a number of general offences and more detailed secondary legislation.

*4.33* The Food Act 1984 covered England and Wales and defined the Minister of Agriculture, Fisheries and Food, the Secretary of State for Health and the Secretary of State for Wales, acting jointly, as the relevant Ministers.\textsuperscript{1108} It set criteria that food should not be: injurious to health; unfit for human consumption; or falsely described, and should be of the nature, substance or quality demanded by the purchaser. The Act also provided for the control of food composition, labelling and hygiene by regulations. The corresponding Act in Scotland for such food safety requirements was the Food and Drugs (Scotland) Act 1956, with the Secretary of State of Scotland having power to make regulations under the Act. Food safety was governed in Northern Ireland at this time by the Food and Drugs Act (NI) 1958, then the Food (NI) Order 1989. The Department of Health and Social Services (DHSS) had lead responsibility for food safety legislation in Northern Ireland.\textsuperscript{1109}

*4.34* An Interdepartmental Working Group set up by Sir Robin Butler, Secretary of the Cabinet and Head of the Home Civil Service 1988–98, following a meeting of Permanent Secretaries on 18 July 1989, reviewed the division of food safety responsibilities between DH and MAFF. The Group was chaired by Andrew Whetnall, a senior official (Grade 3) in the machinery of government division of Cabinet Office.

*4.35* The Working Group reported in October 1989. On relevant responsibilities for food safety, the Whetnall Report said that DH led on ‘food hygiene – the protection of public health from unfit food’. However, MAFF had ‘specific responsibilities for

\textsuperscript{1107} S92 K Taylor para. 7

\textsuperscript{1108} L1 tab 2B

\textsuperscript{1109} For further details on the position in Northern Ireland and Scotland, see vol. 9: *Wales, Scotland and Northern Ireland*
eggs, milk and meat hygiene’. On meat hygiene the Report stated that MAFF led on ‘the hygiene of meat and meat products whether in the slaughterhouse or in the course of importation’ and on the ‘hygiene of milk production and distribution’.1110

4.36 The Working Group did not recommend any change to this division of responsibilities; however, they agreed that improved arrangements were needed for liaison and direction of effort concerning the microbiological safety of food.

4.37 DH told us that what this meant in practice:

. . . in order to ensure a focused approach to the legislation and its enforcement, the Department of Health or MAFF have led on the use of these powers depending on the particular food industry sector involved in accordance with page 5 of the Interdepartmental Working Group Report. For example, the Department of Health has led on Regulations applying general hygiene requirements to foods not of animal origin and more generally to the retail and catering sectors including retail butchers, whilst MAFF have for the most part led on Regulations applying hygiene conditions to products of animal origin including the fresh meat sector, i.e. slaughterhouses, cutting plants and cold stores. Because Ministers of the Department of Health, MAFF and the Scottish and Welsh Offices are co-signatories to the Regulations made under these Regulation-making powers, they necessarily consult each other on their contents.1111

4.38 The Slaughterhouses Act 1974 banned the use of premises for slaughtering animals whose flesh was intended for human consumption, unless those premises were licensed as a slaughterhouse.1112 This was the starting-point for the protection of the public against risks to human health from meat, for numerous regulatory measures were imposed on slaughterhouses and on stages in the food chain after slaughter. We shall briefly describe some of the regulations affecting slaughterhouses, the regime for their enforcement by local authorities and the monitoring of that enforcement by MAFF. We then touch on the position after meat had left the slaughterhouse, before returning to examine evidence about hygiene standards in slaughterhouses up to the end of 1990.

Regulations affecting slaughterhouses

4.39 At the beginning of 1990, regulation of meat hygiene in slaughterhouses was governed by the Food Act 1984. As described in vol. 14: Responsibilities for Human and Animal Health, the Act provided the Minister with powers to regulate the inspection of animals intended for slaughter, and the carcasses of animals, for the purpose of ascertaining whether meat intended for sale was fit for human consumption. In addition, the Act provided Ministers with the power to require the ‘staining and sterilisation’ of meat that was unfit for human consumption and generally for the treatment and disposal of any unfit material.
4.40 The regulations made under the Food Act 1984 or its predecessors affecting the production of red meat\textsuperscript{1113} included the following which were in force at the start of 1990:

- **The Meat Inspection Regulations 1987**: these regulations applied to all meat produced for domestic consumption. The regulations provided for post-mortem inspection of each carcass by an authorised inspector of the local authority to establish its fitness for human consumption against specified criteria. Under the regulations all fit meat had to be stamped as fit by the inspector;

- **The Fresh Meat Export (Hygiene and Inspection) Regulations 1981**: these regulations set out a regime for the approval and certification of ‘export slaughterhouses’, and imposed requirements for meat intended for export to other EC member states. In particular, in addition to post-mortem inspection (similar to that required under the Meat Inspection Regulations), ante-mortem inspection was required, to be carried out under veterinary supervision; and

- **The Meat (Sterilisation and Staining) Regulations 1982**: these applied in both domestic and export approved premises and, subject to certain exceptions, required that all meat deemed unfit for human consumption be sterilised or stained with a visually identifiable black stain. The system established by the regulations was designed to ensure (among other things) that unfit meat at slaughterhouses could be removed to certain approved premises only under licence of the local authority.

**Local authority enforcement**

4.41 The enforcement of these regulations was not the task of central government. Instead, it was a responsibility placed upon the district council tier of local government. The local authorities concerned comprised district councils and, since 1986 in metropolitan districts and London boroughs, unitary authorities. For convenience we shall generally adopt the shorthand of simply referring to ‘district councils’ or ‘the local authority’.

4.42 The regulations in relation to meat safety placed a duty of inspection on the local authority, which was authorised to appoint inspectors (under the Food Act 1984) for the purpose. An Authorised Meat Inspector (AMI) was required to achieve the qualifications set out in the Authorised Officers (Meat Inspection) Regulations 1987. All AMIs would hold the Certificate in Meat Inspection of the Royal Society of Health, which entailed 43 weeks’ training, or other comparable certificate or diploma. The Environmental Health Departments (EHDs) of the relevant local authorities would supervise meat inspection through EHOs who would be responsible for inspection in cooperation with AMIs. EHOs were members of the Institute of Environmental Health Officers (subsequently the Chartered Institute of Environmental Health (CIEH)) and held an accredited BSc Hons university degree or the Diploma of Environmental Health. They were required to have completed 400 hours of on-line practical meat inspection training.

\textsuperscript{1113} Red meat refers to beef, pork, and lamb. Throughout the remainder of this chapter, references to ‘meat’ should be taken to mean ‘red meat’.
4.43 All officers authorised under the Food Act 1984, including an AMI, could reject meat as unfit for human consumption, or seize it if the owner did not voluntarily surrender it. When meat had been seized, any dispute could be taken before a magistrate, who could condemn the meat. If the magistrate decided against condemnation, the local authority would be liable to pay compensation to the owner.

4.44 In large slaughterhouses, a team of AMIs might be present for most or all of the working day. In very small slaughterhouses there might not be any officers continuously present, but authorised officers would visit the plant to inspect the day’s kill. For this purpose the Meat Inspection Regulations required that slaughterhouses inform the local authority of the times at which slaughter was to take place.

**Domestic and export slaughterhouses**

4.45 European law required that special provision be made for premises producing fresh meat for export to member states. Regulations made for this purpose in England and Wales stipulated that only premises approved by the appropriate Minister could be used as a slaughterhouse for the production of fresh meat for export to member states. Below we briefly describe the main requirements in these slaughterhouses and in slaughterhouses which lacked this approval. For convenience, we refer to the former as ‘export slaughterhouses’ and to the latter as ‘domestic slaughterhouses’. We also mention the position where non-member states required certification of slaughterhouses as a condition of export of fresh meat.

4.46 In both domestic and export slaughterhouses there were requirements for the dressing of carcasses, for post-mortem inspection to determine fitness for human consumption, and for the marking of meat which had been passed as fit for human consumption. In summary, if inspection revealed that the animal was suffering from any of certain specified diseases, the whole carcass and all the offal and blood removed from it were to be declared unfit. Certain specific diseases or conditions (such as some forms of tuberculosis) did not, if identified, require the whole carcass and all the offal and blood to be declared unfit, but only those parts specified in the regulations. In addition, where the inspector or authorised officer was satisfied that the whole or any part of a carcass or offal was affected by any other disease or condition, he or she was to regard as unfit for human consumption the whole carcass and the offal, or such lesser part thereof as he or she thought appropriate in the circumstances.

4.47 In export slaughterhouses, the AMIs were supervised by the Official Veterinary Surgeon (OVS), who was usually a private practitioner employed part-time by the local authority, although a few local authorities had full-time OVSs as members of their staff. Ministers were responsible for designating individual veterinary surgeons as suitable for OVS work and local authorities could appoint only such designated veterinarians as OVSs. The OVS undertook responsibilities which included ensuring that hygiene inspection, meat inspection and health

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1114 The Fresh Meat Export (Hygiene and Inspection) Regulations 1981 (L17 tab 3), For Scotland and Northern Ireland see vol. 9
1115 The Minister of Agriculture, Fisheries and Food in England and the Secretary of State in Wales
1116 The Fresh Meat Export (Hygiene and Inspection) Regulations (L17 tab 3), Regulation 7 (1)
1117 Meat Inspection Regulations 1963 Schedule 2 para. s 1–9 (L17 tab 1), The Fresh Meat Export (Hygiene and Inspection) Regulations 1981 (L17 tab 3), Schedule 8, Part VI para. s 1–10
marking of fresh meat were properly carried out. The OVSs were ‘line managed’ by the local authorities’ Chief Environmental Health Officers (CEHOs).

4.48 Fresh meat could be exported to member states for human consumption only if it was accompanied by a health certificate signed by the OVS. Among other things, the certificate gave an attestation that the meat came entirely from animals slaughtered in an approved slaughterhouse and that they had been inspected in accordance with specified requirements of European law.\textsuperscript{1118}

4.49 In domestic slaughterhouses, the AMIs were supervised by an EHO who in turn was responsible to the CEHO of the local authority. The degree of EHO involvement varied, depending on the frequency of their visits to plants. In practice, day-to-day responsibility for hygiene could be delegated to a Senior Meat Inspector or, in small plants, an AMI. The delegation of hygiene responsibilities had to be authorised by the local authority.

4.50 In export slaughterhouses the local authority was required to arrange for animals to be subjected to ante-mortem health inspection. These inspections were designed to ensure that animals were not slaughtered if they:

- showed symptoms of a disease which could be transmitted through the meat to humans or animals, or indications that such a disease might occur;
- showed symptoms of a disease or disorder which would be likely to make the meat unfit for human consumption; or
- were injured, fatigued or stressed.\textsuperscript{1119}

4.51 The OVS had responsibility for ensuring that these inspections were carried out.\textsuperscript{1120}

4.52 Before 1991 there was no requirement for ante-mortem inspection in domestic slaughterhouses, but during 1990 steps were being taken to introduce such a requirement. The Meat Inspection (Amendment) Regulations 1990 made ante-mortem inspection a requirement in domestic slaughterhouses from 1 January 1991. We discuss this further in Chapter 5.

4.53 Thus major differences between export and domestic slaughterhouses were that export slaughterhouses were subject to an additional requirement in the form of ante-mortem inspection, and that supervision of procedures at export slaughterhouses was the responsibility of an authorised veterinarian rather than EHOs. As explained above, the term ‘export slaughterhouses’ is used in this chapter to refer to slaughterhouses where meat was intended for export to member states of the EC. Slaughterhouses might, however, wish to ensure that their meat could be exported to third countries. Often such third countries would treat the European requirements as a benchmark, but some would have their own particular additions to the European legislation.\textsuperscript{1121} Most required ante-mortem checking and total veterinary supervision.\textsuperscript{1122} Compliance with requirements would be certified by a Local Veterinary Inspector (LVI), who was an agent of MAFF. These LVIs carried

\textsuperscript{1118} Fresh Meat Export (Hygiene and Inspection) Regulations 1981 (L17 tab 3), Regulations 9 and 10 Schedule 14
\textsuperscript{1119} Fresh Meat Export (Hygiene and Inspection) Regulations 1981 (L 17 tab 3), Regulations 7(5), (8) and Schedule 6
\textsuperscript{1120} Fresh Meat Export (Hygiene and Inspection) Regulations 1981 (L17 tab 3), Regulation 12 (1)(a)
\textsuperscript{1121} T34 pp. 74–75
\textsuperscript{1122} T34 p. 76
out their duties at the behest of the Ministry, and would usually be appointed by the DVO and paid by the Ministry.\textsuperscript{1123}

**MAFF monitoring in slaughterhouses**

4.54 MAFF had a monitoring role in slaughterhouses. This was performed by the SVS, which as noted earlier was part of ADAS from 1971 to 1990 and during 1990 became part of the AHVG.

4.55 The SVS (Field), the operational arm of the SVS, was responsible for implementing Animal Health, Animal Welfare and Public Protection policies of the Ministry. As part of these responsibilities, designated officers of the SVS (Field) carried out certain functions in slaughterhouses and similar premises in accordance with the SVS Instruction Manual.\textsuperscript{1124} For the most part routine work fell to Veterinary Officers (VOs) who were nominated for meat hygiene duties, and were required to spend at least 50 per cent of their time devoted to this work. They were known as Veterinary Officers (Meat Hygiene) or VOs (MH). Inset 31A of the Manual set out instructions describing inspection and reporting procedures for red meat. These instructions covered both export approved and domestic premises. For domestic slaughterhouses, the SVS carried out annual inspection visits. The express purpose of these visits was:

> to provide advice to the local authority about the application of legislation, including welfare aspects, so that the regulations are enforced in a uniform way at all slaughterhouses; and to report to the Ministers on the standards observed.\textsuperscript{1125}

4.56 Section III of Inset 31A dealt with EC export approved plants. This stated that in every plant where shortcomings had been found a forward plan was to be prepared by the Regional Meat Hygiene Adviser (RMHA). RMHAs were the members of the SVS responsible for meat hygiene policy and for animal welfare in slaughterhouses within their region. Paragraph 6 of Section III emphasised that responsibility (within the SVS) for drawing up the forward plan, agreeing it with the local authority and, if possible, agreeing it with the local operator, policing it and amending it as necessary rested with the RMHA. Paragraph 15 noted that when there had been a failure to comply with previously given timetables for the correction of deficiencies careful consideration should be given to the work outstanding. If considered justified, the plant management should be given a verbal warning that a recommendation would be made to suspend EC approval in one month, unless the outstanding work was completed within that time. This could be followed by a head office letter, at which stage the Superintending Meat Hygiene Adviser (SMHA) or the SVO (Red Meat) at headquarters would become involved.

4.57 Inspection of domestic slaughterhouses was dealt with in Section VII of Inset 31A. Whereas export slaughterhouses were visited by a VO (MH) every month, domestic slaughterhouses might be visited by any nominated VO who had received meat hygiene training every 12 months.\textsuperscript{1126} Where a VO (MH) or VO considered that any legal requirement was not being met, discussions were to be held with the

\textsuperscript{1123} T34 pp. 65–68
\textsuperscript{1124} DM01 tab 8 para. 17 and 18
\textsuperscript{1125} M42 tab 1 p. 19
\textsuperscript{1126} Inset 31A Section II, para. 1 (M42 tab 1 p. 5)
local authority and confirmed in writing. If effective action was not subsequently being taken, a full report was to be made by the VO (MH) or VO to the RMHA. Subsequent action was dealt with in paragraphs 6 and 7 of Section VII of Inset 31A:

6. If the RMHA considers that the local authority has not made an effective response to a report about deficiencies the RMHA may wish to visit the plant and, or, write to the local authority. If it is subsequently considered that the appropriate Agriculture Department should take further action, in England the Regional Director should be invited to write to the Chief Executive of the local authority . . .

7. The SMHA should also be informed by the RMHA in writing of all cases of serious and persistent contraventions. Where regional action has no effect the RMHA may recommend that Meat Hygiene Division . . . should pursue the case. 1127

4.58 Inspection visits were also required to note any animal health problems. Inset 31A provided that where there was any unnecessary pain or distress immediate corrective action should be taken and a further visit should be made shortly afterwards to confirm that the problems had been solved. 1128

4.59 So far as animal welfare and other matters covered by the Animal Health Act 1981 were concerned, the primary enforcement authorities were the metropolitan boroughs or district councils. 1129 Responsibilities of MAFF under that Act are discussed further in vol. 14: Responsibilities for Human and Animal Health and in vol. 5: Animal Health 1989–1996. Here we note that the SVS had powers of entry to slaughterhouses under that Act for the purposes of disease control and if there were reasonable grounds for suspecting that an Order made under the Act had not been complied with. 1130 Turning to meat hygiene and inspection, in premises used as an export slaughterhouse the SVS, where authorised by the appropriate Minister, had a power of entry for the purpose of ascertaining whether there was or had been on, or in connection with, those premises any contravention of the relevant regulations. 1131 The appropriate Minister was entitled to require that local authorities provide information relating to the execution of their duties in relation to export slaughterhouses. 1132 In domestic slaughterhouses, the SVS had similar powers of inspection under section 89 of the Food Act 1984. 1133

4.60 The position in domestic slaughterhouses and knackers’ yards was summarised by MAFF in a memorandum to the Inquiry:

. . . There was a well established system for enforcement of regulations made under section 13 of the Food Act 1984, with which the local authorities (as the enforcing authorities) and central Government were fully familiar. Within that system, the role of the SVS in relation to domestic slaughterhouses and knackers’ yards was essentially four-fold: to inspect slaughterhouses and knackers’ yards on an annual basis; to provide advice and guidance if appropriate or required to the enforcing authority about the
application of the legislation (including in relation to the welfare of animals); to take immediate corrective action if an immediate animal welfare problem was identified during that visit but in respect of any other failing identified during the visit to follow the consultation procedure set out in Section VII of Inset 31A; to report to Ministers on the standards observed (including in relation to any failure by a local authority to discharge the duties imposed on it by the Food Act 1984 and any regulations made thereunder). It was not, and was never expected to be, the enforcing authority under the Act or the regulations and, accordingly the Ministry was granted no specific appropriations by Parliament for this purpose.1134

4.61 The position within MAFF was described by Mrs Attridge. Asked who in MAFF, prior to the creation of the AHVG, had the overview of and was accountable for red meat handling, she said:

It would have been split because in relation to export slaughterhouses, there was a very direct veterinary involvement, and Ministry involvement . . .

. . . the CVO, who was responsible for the meat hygiene vets would have known a great deal more going on on the ground, and the administrators would be responsible for the actual legislation and the powers which the Ministry had in relation to the areas which we could operate within.1135

4.62 In oral evidence Mr David Taylor (Veterinary Head of Section, Red Meat Hygiene, May 1987–April 1997) explained that the SVS would visit slaughterhouses for a number of reasons:

The main reason is to audit the performance of the local authority, is the local authority doing their job properly? If he identified problems in that slaughterhouse, he would take it up with the local authorities. If there were serious problems, he would revisit in a short time. But he was only there as a visitor, if you like. He was carrying out an inspection of the plant and an audit of what the local authority was doing. But the local authority had the enforcement responsibility, they were responsible for enforcing the legislation.1136

4.63 Others disagreed with the word ‘audit’. Mr Hewson1137 explained that the aim was to advise and try to ensure that local authorities were implementing legislation uniformly across the country, and to provide a means through which information about the industry could be conveyed to government. Mr Iain Crawford1138 and Mr Keith Baker1139 agreed that the Ministry was taking an overview of enforcement. Mr Baker added that since the government was responsible for preparing legislation, ‘it needed to be ensured that it was being effectively carried out equally . . . across the country’.1140

4.64 As might be expected, relations between EHOs and the SVS varied. Mr David Taylor commented:

1134 DM01 tab 8 para. 20
1135 T33 pp. 56–58
1136 T34 pp. 71–72
1138 MAFF Grade 3, Director of Veterinary Field Service (Veterinary Group) June 1988 – April 1998
1139 MAFF Grade 4, Assistant CVO, responsible for red meat hygiene sections, June 1988 – Feb 1996
1140 T34 pp. 72–73
In some places, the relationship between the EHO – who was supervising the meat inspector – the relationship between the EHO and the veterinarian was extremely good. In my own division, when I was Veterinary Officer, I used to play tennis with the EHO, and we had a good relationship. In other places it was more difficult.

Some times the local authority were not very happy that a plant should be visited at a particular time, and it became more difficult to gain access, but it varied from division to division from place to place.1141

Regulation once meat left the slaughterhouse

4.65 As noted above, while MAFF led on regulations affecting slaughterhouses, cutting plants and cold stores, DH led on regulations applying more generally to the retail and catering sectors including retail butchers. Cutting plants and cold stores could form part of slaughterhouses or might be stand alone. In either case, Inset 31A provided for inspection by the SVS where the premises in question were approved for the handling of meat intended for export to member states of the EC.1142 In relation to the retail and catering sectors, DH did not have an equivalent of the SVS. In a memorandum to the Inquiry,1143 DH explained the position as follows:

IV. The Department of Health’s Environmental Health Officers

16. The Department employs EHOs to provide it with particular expertise in certain areas of food hygiene work. The Department’s cadre of EHOs is headed by the Chief Environmental Health Officer (“CEHO”) (grade 5 level), who is also head of a unit currently located within the Department of Health and MAFF Joint Food Safety and Standards Group (JFSSG) which was set up in September 1997. The CEHO’s unit includes Departmental EHOS, but not all of the Department’s EHOs work in the CEHO’s unit, and although the CEHO is Head of Profession for EHOs within the Department (and now the JFSSG), unlike, for example, the Chief Medical Officer, his responsibilities do not extend beyond the Department . . . indeed they do not extend beyond JFSSG.

17. The Department had over the years provided local authority EHDs with advice on a number of food safety enforcement issues where the Department of Health has had the policy lead in the relevant subject area eg. via the Code of Practice No 9 on Food Hygiene Inspections. However, the Department of Health does not provide advice in areas where MAFF (or any other Government Department) has the policy lead; (although the Department of Health may provide advice to MAFF on guidance drafted by MAFF, generally where they are requested to do so eg. guidance issued by MAFF about the Meat Products Regulations 1994.) In areas where the Department of Health had the policy lead the Department of Health’s CEHO has not necessarily been the channel for the advice which the Department has provided to EHDs on enforcement issues, although some of the advice will have come from his unit. The Department of Health does on an ad hoc basis send out ‘Dear Chief Environmental Health Officer’ letters to EHDs offering
advice on enforcement issues, but these are letters to the LA CEHOs, not from the DH CEHO.

18. There are, in fact, many areas of EHD work in which the Department of Health does not provide guidance on enforcement issues, not just in areas where MAFF has the lead in relation to those issues. Examples of this would include noise nuisance and planning issues.

4.66 Regulations in force in 1990 relevant to the handling of meat after it left the slaughterhouse, and to meat products for human consumption included:

- the Food Hygiene (General) Regulations 1970, which governed hygiene at premises handling food, including high street butchers; and
- the Meat Products and Spreadable Fish Products Regulations 1984, which (among other things) defined the parts of the cow which could be described as ‘meat’, and specified which other parts could be used in human food, provided they were not described as meat.

4.67 As with regulations governing meat hygiene in slaughterhouses, the primary responsibility for enforcement of these regulations fell on the district council tier of local government.

**Hygiene standards in slaughterhouses up to and including 1990**

4.68 In this brief account of hygiene standards in slaughterhouses, we start with the position up to 1990.

4.69 The Preston Report in 1985\(^{1144}\) commented on the problems with enforcement of hygiene standards at that time. It was noted that there was ‘a large variation in the enforcement of hygiene standards, especially in the plants not licensed for export’. Furthermore:

A separate concern that emerged from the evidence was that practices in some slaughterhouses are unhygienic and pose more of a risk to public health than any deficiencies in premises and fabric. The problems include slack methods of dressing carcasses, careless spraying of carcasses with water, infrequent sterilisation of knives and washing of hands, and inadequate cleaning of the slaughterhall and equipment. These problems indicate that some local authorities are unable or unwilling to enforce an adequate level of hygiene when plant management fails to do so.\(^{1145}\)

4.70 Dr Alan Long, of Vegetarian Economy and Green Agriculture (VEGA), put things more graphically. He told us he visited various livestock markets, slaughterhouses, knackers’ yards, rendering plants and feed mills. He said:

Many animals arrived filthy and wet. Muck, which could include remains of feed and bedding mixed with excrement, coated them. Vets who tried to

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\(^{1144}\) M22 tab 14. Mr Peter Preston chaired a committee that was appointed by the Government to review the red meat inspection service in Great Britain. Discussion of the impact of the Preston Report can be found at T33 pp. 89–97

\(^{1145}\) M22 tab 14 para. 42
exclude such arrivals were on occasions physically assaulted and were threatened likewise when they tried to prevent other breaches of good practice. Any pre-slaughter cleaning of the animals might entail hosing down, adding droplets of soil to the steamy atmosphere and bacteria-laden aerosols pervading the premises. The hide trade complained of the damage to the skins, which were also devalued by abscessed injection sites after clumsy administration of drugs on the farm. Leather merchants and fellmongers had to rely on imports from foreign slaughterhouses for top-quality hides.

During my visits to slaughterhouses in the late 1980s and early 1990s I witnessed guts punctured and leaking during the dressing, digestive tracts inadequately sealed at the esophageal (weasand) and anal ends, and disposal of gut contents, which ranged from newly ingested feed at one end to manure at the other, into drains and, with offals including blood, into materials for spreading on land. In some places efforts were made to remove muck from animals about to be slaughtered, which were hosed down in a corner of the building, in one instance I saw with a high-pressure jet that was jolting the animals and adding to the pervading spray. Faecal material was spattered on some of the carcasses and workers, and stipulated procedures over disinfecting knives and other practices were not being observed, even by meat inspectors. Carcasses were being wiped with cloths used on a number of occasions, being cleaned only by immersion during breaks in a murky liquid in a bucket that looked eligible as a good culture medium for microorganisms.

I observed removal of the spinal cords, which were pulled and picked out, leaving behind some of the spinous processes (later added to the list of specified risk materials) and specks on the carcasses. The channel was swept out with a wire brush, which was dropped to the floor when not put to this use and it wasn’t washed during the morning’s activities that I witnessed.1146

4.71 A local authority witness, Mr Richard Lodge, Head of Food and Health and Safety for Birmingham City Council since 1993, told us that in relation to the Preston Report’s comments on the variation in the level of enforcement of hygiene standards between slaughterhouses:

I can only provide evidence from my experiences of the small number of slaughterhouses in which I have worked. However, the term enforcement may mean any action from a verbal warning through to formal prosecution and closure. It must be understood that enforcement action undertaken by an officer of the LA who is present every day at a slaughterhouse and who may see standards deteriorate slowly over time and who may become part of the problem rather than the solution, is not a simple task. Personalities are involved and intimidation may and did, in my experience, occur. It has always been my belief that strict enforcement could only occur effectively following periodic and random inspections by non-AMI staff . . .

In general, domestic slaughterhouses were of a poorer structural standard having been traditional slaughterhouses often upgraded and improved many times as throughput rose. Many were therefore unable to meet the higher
standards expected of export slaughterhouses especially in respect of the requirements which demanded additional space such as showers, mess rooms and other facilities.\textsuperscript{1147}

4.72 Mr Duncan Fry was Head of Branch C of the Meat Hygiene Division from April 1984 to October 1989. In his oral evidence, he said that during that time, ‘we were aware that standards were not as we would desire them’. He continued:

Obviously hygiene standards are hygiene standards, and they are measurable but standards were not good. As I say, based on a once-a-year visit on fairly general regulations, it was quite difficult to be very specific about how poor or how unsatisfactory they were; but over the period from probably 1977 there had been a reducing number of abattoirs. So on the assumption, which is pretty reasonable, that the poorer ones were falling out [of] the bottom, the standards ought to have been going up, albeit slightly and slowly.\textsuperscript{1148}

4.73 Mr Alistair Cruickshank commented that ‘we were pretty unhappy with the standards in the domestic abattoirs’ and added that ‘we had been aware for many years that standards were not good there’.\textsuperscript{1149}

4.74 The Inquiry also heard evidence from Mr Peter Soul (Director of Operations, Meat Hygiene Service, since December 1995) who stated that during his time as an RMHA (between 1988 and 1993, before becoming temporary Deputy Head of the Meat Hygiene Veterinary Section at Tolworth), he was very aware of poor standards and inconsistency in abattoirs. He said that he had visited a large number of premises and had a very good idea of what the standards were.\textsuperscript{1150}

4.75 The Preston Report also commented on meat inspection. It noted that no guidelines existed for the amount of time required for carrying out meat inspection. This meant some authorities employed fewer inspectors to minimise the financial burden on hard-pressed plants, and plants with higher throughputs would require inspectors to handle a greater amount of inspections.\textsuperscript{1151}

4.76 Mr Soul’s evidence echoed many of the concerns expressed in the Preston Report. He drew attention to the position of AMIs:

I think there were a number of factors that were involved. I think under the local authority system a lot of meat inspectors were pretty much left to their own devices and I think many of them became almost a part of the plant staff and were getting involved in trimming and perhaps even dressing and so on, which was clearly the plant responsibility, rather than keeping themselves somewhat removed from that and recognising their role as an enforcement officer. I think there were other difficulties with the local authority system where, because of local influences and so on, and local employment, it may have been quite difficult for the Environmental Health Department to take a firm enforcement line with certain local employers.\textsuperscript{1152}
4.77 Problems were not confined to domestic slaughterhouses. Mr Soul felt that export approved premises tended to have much better standards than domestic plants although Commission inspectors had stated that even in export approved premises, standards were not as good as they believed they should be.1153

4.78 Mr Andrew Fleetwood, SVO, MAFF,1154 had acted as an OVS while in general practice prior to joining MAFF in 1987. In oral evidence he was referred to an assertion in the Preston Report that OVSs frequently lacked authority in export plants because the local authority failed to give them adequate support. Mr Fleetwood commented on his personal experience:

That is something that I could echo, yes. Certainly there was a feeling, philosophical feeling that the OVS was, to some extent, on his own in the plant; and I personally received little input from the local authority directly.

. . . you would like to see your employers more often, perhaps talk with your employers, meet with them on a regular basis, discuss how things are going and what initiatives you have. And that sort of dialogue did not commonly take place.1155

4.79 When asked whether there were any difficulties about the relationships between OVSs and AMIs, Mr Fleetwood told us:

To some extent yes. There was something of an attitude that OVSs were superfluous in the way – I will not say ‘unnecessary’, but an added level of complexity.

Also, at this time, the hygiene standards under legislation varied between export and domestic consumption, so that is an added level of complexity. The standard could legitimately be different for one production as from another.

MR MATOVU: When you say there was a feeling that OVSs were superfluous, was this a feeling on the part of the slaughterhouse managers or on the part of the meat inspectors or both?

MR FLEETWOOD: I suspect both in some premises. Again I do not want to generalise. In other premises the OVS was seen as an important part of the team.1156

4.80 When asked whether he was conscious that some slaughterhouse operators, particularly those represented by the Quality Meat and Livestock Alliance, considered that OVSs interfered in the running of the business, Mr Fleetwood told us:

I am slightly conscious of that. I think the circumstances at the time [before requirement of veterinary supervision at all slaughterhouses] probably encouraged that attitude in that the OVS was only present in the plant some of the time, perhaps only 10 or 20 or 30 per cent of the plant’s time and the
rest of the time there would be no OVS. So that would encourage comparisons between when the OVS was present and when the OVS is not. Obviously now it is quite different, but that was then.

Mr Matovu: Going back to those days did you get the impression that the OVS was resented? I accept these are generalisations.

Mr Fleetwood: Yes, resented would definitely be an overstatement. It would be wrong to make any statement and apply that as a blanket at overall premises. As I said in my statement, attitudes varied. In some premises the OVS was seen as an important part of the team to guarantee the quality of the product. 1157

4.81 Mr Fleetwood also commented that, in his experience, standards in some slaughterhouses lapsed when veterinary supervision was not present:

. . . certainly some of my experience as an OVS was that the moment the OVS walked out the door things changed behind you, because the OVS was not present always. That made me naturally feel that standards perhaps were acceptable when the operators were being watched, but may lapse the moment official attention was removed.

Mr Matovu: So that would presumably have carried through that line of argument, to SVS visits to slaughterhouses?

Mr Fleetwood: It may do, yes. 1158

4.82 We turn to the position during 1990, and begin with a concern raised by the private sector. On 16 May 1990, Mr Gummer and Mr Andrews had dinner with representatives of the food and food retailing industry. Lord Sainsbury expressed concern that the Food Safety Bill would be giving enhanced powers to local authorities but doing nothing to address the problem of varying standards of enforcement. This variation, which was caused both by the differences in the quality of different EHOs and by differences in local authority enforcement policies, was a major worry for the industry. Mr Gummer said the Bill would make a first step in the right direction by providing for training, guidelines and enforcement. He hoped that in time the enforcement of food legislation would be on a national basis. But that was not achievable now. 1159

4.83 For 1989–90, results of MAFF monitoring of red meat premises revealed that, of the domestic premises visited by the SVS, 57 per cent had satisfactory hygiene standards. For export-approved slaughterhouses, 71 per cent had satisfactory hygiene standards. For 1990–91, the comparable percentages were 37 and 85 respectively. It was noted that for domestic plants, ‘the sharp drop in standards in 1990–91 may also be due to a lack of commitment by plants who think that they will not continue in business after 1992. However, the standard in domestic plants has consistently been lower overall’. 1160
4.84 A document was prepared by MAFF giving examples of failure by local authorities to enforce SVS recommendations in domestic red meat abattoirs. This recorded that reports in 1990 by the SVS on various abattoirs had identified problems which included the following:

Dirty knives . . . stomachs frequently dropped on floors during evisceration, build up of blood and guts contents on floor . . . contamination of carcasses during dressing . . . inadequate separation between slaughter hall and hide room . . . external doors left open (entry of flies, etc.) . . . trays of meat in contact with floor, sterilisers and wash basins not working, unacceptable dressing hygiene – no cleaning or sterilising of knives, no washing of hands or aprons, faecal contamination of carcasses, green offal dragged across floor . . .

4.85 Other examples of deficiencies in hygiene in slaughterhouses are found in a report prepared by Mr P Webster, VO, MAFF, on 20 November 1990. In a slaughterhouse he visited, deficiencies included peeling paint on the bleed tank, a rusty overhead beam in the slaughterhall, a separation in a drain pipe junction was causing drainage to discharge across the floor, and carcasses rubbing against each other while still warm and wet.

4.86 Concerns about hygiene standards in slaughterhouses were raised in DH. On 29 November, Mr Thomas Murray of the Environmental Health and Food Safety Division of DH sent a minute to the Secretary of State about enforcement arrangements at slaughterhouses. He recorded that:

DH officials, on public health grounds, have concerns about cross contamination in slaughterhouses. The Richmond Committee share this concern.

4.87 Deficiencies in hygiene standards in slaughterhouses were recognised by the British Veterinary Association during 1990. At an Association of District Councils seminar held on 15 November 1990, Mr Howard Hellig (Vice-President of the BVA) presented a paper addressing the role of the veterinary surgeon in relation to fresh meat and poultry meat. He stated:

We start with the situation that none of us can be proud of – as the media frequently remind. It is difficult indeed to counter the accusation that the present system of meat hygiene control is inadequate. When inspectors from Brussels have paid their periodic visits to our plants they have been critical of what they have found. And I am sure I have no need to remind this audience that those they have visited have been in the higher, export approved category.

4.88 Two underlying matters influenced MAFF’s consideration of hygiene standards in slaughterhouses during 1990. First, there was a need to take into account EU developments that would require inspection and supervision regimes in domestic slaughterhouses to match those in export approved slaughterhouses by
1993 (see Chapter 5). Secondly, the Food Safety Bill, once enacted, would provide a new food safety regime. Mr Gummer explained to the House of Commons Select Committee on 23 May 1990 that the Food Safety Bill would provide powers for a Minister to intervene if the local authority were not discharging its responsibility, and give powers to direct that particular duties imposed upon local authorities be taken over by the Ministry. 1166

4.89 The reason for seeking new powers in the Food Safety Bill was set out on 21 May 1990, by Mr Griffiths of the Meat Hygiene Division in a briefing note for Mr Gummer on inspection at slaughterhouses. He explained the enforcement structure at that time, making particular reference to SVS inspection powers:

Under the Food Act 1984, the Minister’s officers have power to enter domestic slaughterhouses to ascertain if there has been any contravention of the Regulations, but have no effective power to take steps to enforce the Regulations if a contravention is found. There is only a cumbersome procedure, which has never been used, for the Minister to cause a local enquiry to be held following which he may make an order directing a local authority to remove the default and, if the order is not complied with, transfer responsibility to the county council. 1167

4.90 At a meeting between the Minister, Mr Maclean and senior MAFF officials on 13 June 1990, Mr Gummer asked for advice on how tighter controls on slaughterhouse practices could be implemented by regulation. He said that it would be desirable to introduce ‘one further package of measures, including other (non-BSE) aspects of slaughterhouse procedures’. 1168

4.91 On 5 July 1990, Mr Maclean sent Mr Gummer a note entitled ‘BSE outstanding issues’. On slaughterhouses, he said:

As you know, we have been looking at various aspects of slaughterhouse operations. We have the EC directive coming along, we must announce the details of our Meat Inspection Regime and I have been concerned about allegations of unfit meat finding its way into abattoirs and the fraudulent use of meat stamps etc. When we also consider the various authorities with rights and duties in slaughterhouses it is easy to see how allegations of malpractices or inadequate supervision can gain credence.

We cannot go into the Summer Recess without a major announcement on our Slaughterhouse Inspection and Approval Regime, even though some details are still unclear from the Commission.

In my MINIM discussions I have made it clear that I want more resources for slaughterhouse inspection, whether welfare or meat hygiene. Since we are not ready to announce all the details of our Meat Inspection Regime I think we should make an immediate statement that MAFF will devote extra resources to slaughterhouse supervision. 1169

1166 IBD1 tab 7 p. 10. We explain later in this chapter that an unintended result of the new Act was that MAFF veterinarians lost the right to enter domestic slaughterhouses for food safety purposes.
1167 YB90/5.21/1.1
1168 YB90/6.14/2.2. BSE aspects of slaughterhouse procedures are discussed later in this chapter.
1169 YB90/7.06/8.3
4.92 Mr Gummer asked Mr Andrews to arrange for the Department urgently to advise on the implications of Mr Maclean’s proposals. On 10 July 1990 Mr Andrews replied attaching notes on Mr Maclean’s points. In his covering minute, Mr Andrews noted that the Minister had asked SEAC to advise on slaughterhouse practices and that the House of Commons Agriculture Select Committee could make reference to this. Mr Andrews suggested at least waiting for the report of the Select Committee before reaching a conclusion. The note accompanying Mr Andrews’s minute stated:

As the Parliamentary Secretary knows, we are looking at current controls on unfit meat. Inspection and supervision of slaughterhouses is a matter for local authorities. MAFF is responsible for inspection and supervision of export slaughterhouses. Until the post-1992 system for meat inspection is agreed the Ministry must respect the present division of labour on enforcement of Regulations. As the Ministry has no legal authority for domestic slaughterhouse inspections the Ministry could only advise local authorities and we have not got veterinary resources available for such an advisory role. In the course of discussion on the EC post-1992 Regulations we will be discussing with local authorities the appropriate approval, enforcement and supervision arrangements for the future.

4.93 In relation to devoting more resources to slaughterhouse supervision, the note continued:

It would not be appropriate for the reasons already explained . . . for MAFF to supervise domestic slaughterhouses . . . Since Mr Maclean’s concerns appear to arise from BSE he may like to know that since last Autumn we have instructed veterinary staff (either Ministry or LVIs) to carry out ante-mortem inspections under the Animal Health Act at all slaughterhouses slaughtering adult cattle. Of a throughput of around 1500–1700 per month two cattle have been picked up in this way. LVIs now inspect daily when adult cattle are slaughtered. The cost of these visits falls on the Ministry programmes.

In the context of the EEC, Ministers have already announced that they will move to a common standard for the Single Market which will involve substantial investment by abattoirs and many closures. Discussions have not yet started in Brussels on the exact implementation of the Community proposals but additional veterinary resources have been approved for proposes of ensuring that plants are upgraded to meet structural and hygiene requirements.

4.94 On 10 July, Mr Harrison, PS Mr Gummer, advised Mrs Attridge that the previous day Mr Gummer and Mr Maclean had discussed slaughterhouse hygiene, and the measures that could be taken in advance of the Select Committee report on BSE:

The Minister decided that it would be appropriate to publicise the fact that we will be consulting shortly on changes to slaughterhouse hygiene.
practices, in the context of the Commission’s proposals for common standards on hygiene after 1992.1174<

The Food Safety Act 1990

4.95 The provisions of the Food Safety Act 1990 relevant to this chapter came into effect in England, Scotland and Wales on 1 December 1990.1175 The Act sought to provide a comprehensive update of food legislation with the aim of improving food safety and of enhancing consumer confidence in food. One aim of the new Act was to set out a clear and effective strategy on food safety and consumer protection. The 1990 Act retained many of the existing provisions, without major change, from the Food Act 1984, the Food and Drugs (Scotland) Act 1956 and certain other legislation relating to food. It also included new provisions to address particular gaps identified by MAFF and to enable MAFF to deal with new deficiencies or EC obligations that might emerge. It simplified and streamlined the existing Acts into one Great Britain Act.1176

4.96 The 1990 Act defined ‘Food Authorities’ in Section 5(1) as the Council of each London borough, district or non-metropolitan county, the Common Council of the City of London and the treasurers of the Inner and Middle Temples. Section 5(4) allowed Ministers to assign responsibilities for functions under the Act to a particular tier of local authority in the non-metropolitan county and district councils. For England and Wales Ministers assigned responsibilities for enforcing section 12 of the Act (emergency prohibition notices and orders) to district councils and responsibility for enforcing section 15 of the Act (false description of food) to county councils.1177 Responsibility for enforcing the SBO ban and regulations affecting meat hygiene generally remained with the district council tier of local authorities.1178

4.97 The Act also contained some substantial revisions including:

- tighter controls on unfit food and food not of the nature, substance or quality demanded by the purchaser.
- New enforcement measures to strengthen the existing system, such as registration of food premises.
- Powers for Ministers to fill gaps that emerge in the existing food safety system, eg, improved powers, for use when necessary, to control novel foods.

4.98 The 1990 Act introduced provisions for the registration by enforcement authorities of premises used or proposed to be used for the purposes of a food business, and for prohibiting the use of those premises which are not registered. It also introduced a licensing requirement for food businesses or processes posing a particular risk to health. These new measures applied to slaughterhouses.

1174 YB90/7.10/7.1
1175 Provisions dealing with the emergency control orders and amendments to the Food and Environment Protection Act (sections 12 and 51) came into force on 3 July 1990
1176 The Food Safety (NI) Order 1991 introduced similar food safety legislation in Northern Ireland. See further vol. 9: Wales, Scotland and Northern Ireland
1177 Food Safety (Enforcement Authority) (England and Wales) Order 1990, SI 1990/2462
1178 Food Safety Act 59(3) and Schedule 4; Food Safety Act 1990 (Consequential Modifications)(England and Wales) Order 1990 (L11 tab 10) Article 4(5) and (6) and Schedule 4 Part II
4.99 In relation to the enforcement regime in slaughterhouses, the Food Safety Act 1990 confined powers of entry to authorised local authority staff. Consequently MAFF veterinarians no longer had the powers of entry to slaughterhouses which had been conferred by the 1984 Act. This does not appear to have affected their ability to gain access to slaughterhouses in practice.

4.100 The 1990 Act provided for Ministers to issue codes of recommended practice relevant to the execution and enforcement of the Act and regulations made under it. In order to give effect to this provision, MAFF set up the Implementation Advisory Committee (IAC) in 1990, to draw up these codes of practice and to ensure the consistent enforcement of food safety legislation on a nation-wide basis.

General aspects of the SBO ban in 1990

Additional requirements introduced by the SBO ban

4.101 The Bovine Offal (Prohibition) Regulations\(^\text{1179}\) prohibited the sale or use in the preparation of food for sale for human consumption of ‘specified bovine offal’.\(^\text{1180}\) Specified bovine offal (SBO) was defined in the Regulations as being the brain, spinal cord, spleen, thymus, tonsils and intestines of a bovine animal slaughtered in the UK.\(^\text{1181}\) However, the Regulations did not apply to SBO of a calf not more than 6 months old when slaughtered.\(^\text{1182}\)

4.102 To effect the separation of SBO from meat intended for human consumption at the slaughterhouse, the Regulations utilised as a blueprint the regime established under the Meat (Sterilisation and Staining) Regulations 1982 (MSSR) for the separation of unfit meat from meat fit for human consumption. These Regulations are described in detail in vol. 14: Responsibilities for Human and Animal Health.

4.103 Thus, a parallel regime was introduced under the SBO Regulations whereby SBO at a slaughterhouse was required to be ‘immediately’ sterilised (or placed in a designated place for meat awaiting sterilisation and with a notice attached that the contents are for later sterilisation at the slaughterhouse).\(^\text{1183}\) However, the requirement to sterilise SBO did not apply if they were stained immediately after slaughter.\(^\text{1184}\) ‘Sterilisation’ and ‘staining’ were defined by reference to the definitions in MSSR. This meant that SBO would be stained with the same stains as unfit meat.

4.104 The Regulations contained an express provision whereby it was made clear that the severance of SBO from non-SBO material, which was not to be sterilised or stained, was permissible under the Regulations. In consequence, things to be done ‘immediately’ under regulation 5 were to be taken to be so done where any delay was attributable solely to such severance.\(^\text{1185}\) Once severance of the SBO had been effected, meat fit for human consumption could not be stored in the same room.
as SBO unless the SBO had been either sterilised or stained and was stored under an arrangement that ensured that it was at all times kept separate from fit meat. In addition, the container or packing in which any SBO was stored was required to bear a clear notice stating that the SBO held in that container was not for human consumption.\(^{1186}\)

**4.105** Sterilised SBO could be removed from the slaughterhouse without restriction.\(^{1187}\) By contrast, unsterilised SBO could be removed from the slaughterhouse to one of only three specified destinations, and only under the authority of a movement permit. These destinations were as follows:

i. Excepted premises;

ii. The premises of a processor for sterilisation;

iii. The premises of a person for preparation prior to further removal to a processor, or for storage prior for further removal to one of the above two destinations.\(^{1188}\)

**4.106** With one exception, this removal could not be effected unless the SBO was both stained and to be removed in a vehicle or impervious container which was locked or sealed at all times and which bore a notice affixed by the occupier of the slaughterhouse clearly stating that the SBO therein was not for human consumption.

**4.107** The exception was in the case of ‘excepted premises’. These ‘excepted premises’ were defined in the Regulations as:\(^{1189}\)

i. A hospital, medical or veterinary school, laboratory or similar institution for instructional or diagnostic purposes, a rennet manufacturer or a manufacturing chemist for the manufacture of pharmaceutical products;

ii. Premises used for the manufacture of products other than food and not used for the manufacture of food.

**4.108** SBOs could be removed to ‘excepted premises’ neither sterilised nor stained provided the removal was carried out under the authority of a movement permit.\(^{1190}\) This provision mirrors a similar exception in the MSSR, whereby the removal of unfit meat to laboratories, manufacturing chemists and the like could be carried out without material being sterilised or stained.

**4.109** However, the scope of the exception was considerably wider in the SBO Regulations, as it included removal of SBO to any manufacturers of non-food products. In particular, under the Food Act ‘food’ was to be interpreted as not including animal feedstuffs.\(^{1191}\) Consequently, the exemption included within its scope removal of SBO to manufacturers of animal feedstuffs. In practice, however, those involved seem to have assumed that SBO going from a slaughterhouse to a renderer would need to be stained.\(^{1192}\)

\(^{1186}\) Regulation 14  
\(^{1187}\) Regulation 6(a)  
\(^{1188}\) Regulation 11(1)  
\(^{1189}\) Regulation 2  
\(^{1190}\) Regulation 6(c)  
\(^{1191}\) Section 131 Food Act 1984, L1 tab 2B  
\(^{1192}\) See Chapter 4 of vol. 5: Animal Health 1989–1996
4.110 Knackers’ yards were not covered by the SBO Regulations. The requirements as to sterilisation and staining of SBO applied only to the slaughterhouse. The prohibition on removal of SBO did not apply to removal from a knacker’s yard. Regulation 6 restricted removal of SBO from a place other than a slaughterhouse or a knacker’s yard; there were no other relevant restrictions on removal. Thus, by contrast with the MSSR, the regime introduced by the SBO Regulations left knackers’ yards untouched. This was because all knacker meat was presumed to be unfit under the MSSR.

4.111 The removal of unsterilised SBO was controlled by a system of movement permits. This system was identical in every respect to that which applied under the MSSR for controlling the removal of unfit meat, save that the material covered by the permit was SBO and the form of the permit reflected this.

4.112 The monitoring of this system of movement permits was in the hands of the local authority that controlled their issue. To acquire a permit, at least two working days before it was intended to remove SBO from the premises the occupier of the premises had to apply to the local authority giving the following information:

- the intended removal date;
- the description of the SBO;
- the address and description of the premises to which the SBO was to be delivered; and
- the expected date of arrival of the SBO at those premises.

4.113 Upon receipt of an application the local authority was required, without undue delay, to satisfy itself that the premises to which it was intended to deliver the SBO were premises of a kind referred to in regulation 11(1) and were capable of processing or otherwise disposing of the SBO. If the premises were situated in the district of another local authority, the authority to whom the application was made was required to notify that other authority that the application had been made, and was required to take into account any information obtained from that authority in reaching its decision as to the nature of the premises.

4.114 When the occupier of any premises to which the regulation applied regularly delivered SBO of a specific description to a particular destination, the authority in whose district the premises or SBO was situated, on application being made to it stating the description of that SBO and the address and description of that destination, to authorise in advance each such movement by issuing such quantity of movement permits as it considered appropriate.

4.115 As regulations made under the Food Act 1984, the SBO Regulations were enforceable by means of the blanket power given to authorised officers of the local authority to enter any premises at a reasonable hour for the purpose of ascertaining whether any contravention of the Regulations had taken place. However, by contrast to the MSSR, the SBO Regulations did not confer upon authorised officers any additional powers to examine and seize SBO with a view to securing its...
condemnation where it had not been dealt with in accordance with the Regulations.1200

**4.116** It should be noted that the Regulations contained certain exemptions.1201 First, the Regulations did not apply at all to SBO from a calf not more than six months old when slaughtered. Second, the requirements as to sterilisation, staining and removal did not apply to two specified categories of SBO:1202

i. SBO removed by a veterinary surgeon for examination; and

ii. SBO ‘which is neither held for the purposes of a business nor on premises on which the bovine animal whose offal it is has been slaughtered’.

**Extent to which the SBO ban was monitored during 1990**

**4.117** During 1990 the SVS did not issue any specific instructions to its staff in relation to undertaking surveillance of the extent to which slaughterhouses were complying with 1989 SBO Regulations until 12 November 1990.1203 On that day, Mr Keith Baker, the Assistant CVO, sent a request to DVOs seeking information to be submitted to SVS HQ on a one-off basis by 17 December 1990 – on how slaughterhouses were handling SBO.1204 The submission date was later extended to 11 January 1991.1205 The reports were submitted in varying formats and detail, and were considered of limited value to SVS HQ, leading to a request from Mr Iain Crawford (Director of Veterinary Field Service, MAFF) to Regional Veterinary Officers (RVOs) on 18 January 1991, for the information to be re-submitted on pro-formas,1206 Details on the results of this request are given in vol. 5: Animal Health, 1989–96.

**4.118** In the second main section of this chapter we examine the monitoring of removal of the spinal cord from bovine carcasses.

**General concerns about, and guidance on, practical application of the SBO Regulations**

**4.119** In the first two main sections of this chapter we shall describe and discuss practical concerns raised about, first, brain removal and, second, slaughterhouse practices and MRM. Before doing so, we look at the general concerns raised by the IEHO1207 and MAFF’s response to their concerns. (The IEHO’s concerns on brain removal are covered in more detail later in paragraph 4.163). We also look at MAFF’s policy on issuing guidance to local authorities about the SBO Regulations and their enforcement.

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1200 See Regulation 23 of the MSSR
1201 Regulation 3
1202 Regulation 3(2)
1203 M52 tab 5 p. 2
1204 Mr Baker also requested the initiation of monthly visits to rendering plants to obtain information on how SBO was being handled. Further details on surveillance of rendering plants in response to this request are in vol. 5: Animal Health, 1989–96
1205 YB90/12.18/2.2
1206 YB91/11.18/1.1
1207 Now named the Chartered Institute of Environmental Health Officers, the CIEH is a professional and educational body, ‘dedicated to the promotion of environmental health and to encouraging the highest possible standards in the training and work of environmental professionals’. In addition to providing services, information and advice to its members, the CIEH liaises with government departments, to discuss legislation relevant to environmental health (S128 Jukes and Hibbett p. 1)
Concerns expressed by EHOs

4.120 On this topic we need to step back to the last two months of 1989. In late November 1989, after the SBO Regulations came into force, an EHO from Carrick District Council in Cornwall contacted Ms Bronwen Jones of the Meat Hygiene Division in MAFF. He voiced concerns about the danger of head-splitting practices contaminating meat for human consumption. Ms Jones suggested to the EHO that he write to her with his concerns, preferably channelled through the IEHO.1208

4.121 Ms Jones told Mr John Maslin of the Animal Health Division about the conversation, and asked for his view on whether amendments to the Regulations were needed. She commented that:

My own reaction to this is that we have never attempted to, nor can we, ensure that all of the risks from this material (minimal though they are) are eliminated. I should have thought that the removal of brain and other specified offal by whatever means carries some unavoidable risk of cross-contamination.1209

4.122 Mr Maslin discussed the issue with Mr Kevin Taylor and subsequently informed Ms Jones that:

On the splitting of heads, or spinal columns, we agree with your reaction. Some contamination is bound to occur but we have already gone further than Southwood suggested in tackling an already remote risk from offals. Through the prohibition we have taken all practical steps and an amendment to the Regulations is neither necessary nor practical.1210

4.123 Other EHOs raised similar concerns about the SBO ban in late 1989. In response to a suggestion by MAFF, Mr Mike Corbally of the IEHO wrote to all Chief EHOs in local authorities on 11 December, seeking comments and observations about the SBO Regulations. In his letter he stated:

Since their introduction the Institution has received a number of comments and enquiries relating to the short notice of the date on which they were to be implemented and practical difficulties of both compliance and enforcement. Where appropriate these have been forwarded to MAFF for clarification.

It has now been suggested by the Ministry that it would be beneficial if the Institution could establish the effectiveness of the regulations and any difficulties experienced in their enforcement. I would be most grateful therefore to receive any comments/observations you may have on any aspect of the regulations in order that we can formulate a comprehensive report for the Ministry. 1211

4.124 On 1 February 1990, following receipt of comments from Chief EHOs, Mr Corbally wrote to Mrs Clare Goodson, Animal Health Division of MAFF, regarding the difficulties EHOs were experiencing in the interpretation of,
compliance with and enforcement of, the SBO Regulations. Mr Corbally noted that although initially most comments and enquiries the IEHO had received related to interpretation, they subsequently related to practical problems being encountered in enforcement and ensuring the public were protected. He went on to describe the IEHO’s comments and observations:

- **Timing of Implementation**: the speed with which the SBO ban had been implemented meant that some slaughterhouses and local Environmental Health Departments (EHDs) were not aware of the Regulations when they were implemented, and had not received copies of them until after the ban had come into force;

- **Interpretation**: certain aspects of the regulations had proved to be illogical, taking little account of meat inspection procedures. Local EHDs contacting MAFF for advice were told ‘you are the enforcing authority, you interpret the Regulations and enforce them as per that interpretation’. Concern was expressed that this lack of guidance would lead to differing interpretations and standards of enforcement;

- **Specific concerns**: points made regarding practical difficulties being encountered included:
  - Fragmentation of the spinal cord often occurred when the carcass was split. This not only contaminated the meat, but also meant the spinal cord could not be effectively removed in accordance with the Regulations.

4.125 The IEHO concluded that some of the new regulations appeared to be ‘impractical and unenforceable’ and sought a meeting with MAFF to facilitate their effective working in practice. The IEHO issued a press release making public their concerns the same day.

4.126 On 9 February 1990, Mr I Holmes, the Chief Environmental and Community Services Officer for Carrick District Council, wrote to Mr Gummer to query his recent public statements that there was no risk of BSE transmitting to humans. Mr Holmes wrote that he presumed that Mr Gummer believed the SBO Regulations were providing adequate controls and safeguards. He asserted that this was in fact ‘far from the case’, and that the Minister should already have been informed of many concerns by the IEHO; furthermore, he wrote: ‘we have already demonstrated our concerns to you with regard to head-splitting’. He concluded:

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However, in the light of your public statements . . . that there is now considered to be no risk that BSE infected material may infect humans, I wish to seek your answer as to why the above-mentioned Regulations therefore remain in place, and why local authorities must continue to attempt enforcement when in practice, the Regulations are both unreliable and in parts, unworkable.
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4.127 Ms Jones responded on behalf of Mr Gummer on 18 May 1990. She noted that the Regulations were designed to deal with the remote risk that BSE-infected
cows might avoid the slaughter policy and enter the human food chain. She continued:

Independent experts have already assessed the risk to humans from BSE as remote. When results of investigations into the nature and transmissibility of the disease are available it will be possible to make a fuller appraisal of any risk, but in the meantime, the offals ban ensures that those parts of the animal which the BSE agent is most likely to be present do not enter the human food chain.1218

Meeting with IEHO

4.128 On 9 April 1990, MAFF officials, headed by Mr K Baker, ACVO, met with Mr Corbally.1219 MAFF acknowledged that the timescale for the introduction of the Regulations had been unusually short because of public health and awareness considerations, and that this may have led to some enforcement difficulties. The note of the meeting records that there were a number of points were made in response to the IEHO’s concerns, including:

- The main nerves of the carcass were not considered a risk by specialist advisers, and in practice were difficult to remove.1220

4.129 A few days after the meeting, on 18 April, Mr Corbally wrote to Mr K Baker to thank him for the ‘informative and worthwhile discussion’. However, he noted there were still points of concern, and said he would be obliged to receive comment on the following:

Although the Ministry consider that the implementation of the Regulation is a prudent measure, minimising still further a risk that is believed to be very small, if not insignificant (according to current knowledge), do you consider that the continued use of mechanically recovered meat from bovines is acceptable? I recall that during our discussion on the subject of removing the spinal cord you felt that the requirements had to provide a reasonable balance. That is, while removal of the major parts of the spinal cord should be performed it was not considered necessary, nor indeed practical to remove fragments of the major nerves. However, MRM could contain significant quantities of spinal cord nervous tissue.1221

4.130 During oral evidence, Mr K Baker stated that he could not recall what his response was to this letter, though he suggested he would have sought advice from others. However, Mr Baker could not recall to whom he might have referred it.1222

Guidance on the SBO Regulations

4.131 As described in Chapter 3, when the SBO Regulations were made in November 1989, MAFF wrote to local authorities, and their associations, enclosing
a copy of the new Regulations. MAFF did not issue any guidance to accompany them but instead the covering letter advised that ‘if you require any further information or technical advice concerning these regulations, please contact the Veterinary Service at your local MAFF Divisional Office.’ As mentioned in the previous section, the IEHO considered that this lack of guidance led to problems of interpretation and different standards of enforcement between local authorities.

4.132 The question of whether to issue guidance to accompany the SBO Regulations was raised within MAFF following a minute from Mr T P Foster of the Animal Health Division on 31 January 1990. The minute informed Mr Meldrum and other MAFF officials of an impending European Commission ‘Mission’ to the UK. Mr Foster said the Mission would look at red meat plants and would want to see how the SBO ban was working in practice, how it was policed, and what steps were taken to ensure that specified offal was not exported. Mr Meldrum responded that ‘we must ensure that our arrangements for specified offals stand up to detailed scrutiny’, and asked whether advice to local authorities was clear.

4.133 Mr K Baker noted on Mr Foster’s minute, for Mr Meldrum’s benefit, that:

We have not issued any instruction over and above the usual requirements of the Sterilisation and Staining Regs. On receipt of the above minute I passed instructions to Messrs Walker and Hutchins to ensure that RMHAs, VOs (MH) and OVSs were aware that the above aspects would be looked at during the visit to plants.

4.134 In turn, Mr Meldrum asked Mr K Baker, ‘Would it not be wise to draft instructions to Local Authorities on the implementation of the BSE Sterilisation and Staining Regulations or are our current instructions quite clear?’ Mr K Baker replied:

The last guidance note (FSH Circular) was sent out when the Sterilisation and Staining Regs were amended in 1984. No problems have come to our attention in implementing the Regulations. If we go out to Local Authorities offering guidance it might be wise to cover a number of topics rather than BSE alone as this will raise its profile yet again. Perhaps ‘unfit meat’ could be covered as well . . . Any guidance might also have to cover brain removal, spinal cord, major nerve tissue and lymph node and MRM as these have come up as BSE related topics. I suggest our approach to these needs careful consideration and probably a round table discussion.

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1223 YB89/11.09/1.1
1224 YB90/1.31/11.1
1225 YB90/2.06/6.1
1226 The Meat (Sterilisation and Staining) Regulations 1982 (L1 tab 5) were the main Regulations governing the disposal of meat unfit for human consumption at this time.
1227 YB90/1.31/11.1
1228 The ‘BSE Sterilisation and Staining Regulations’ referred to by Mr Meldrum are the Bovine Offal (Prohibition) Regulations 1989 (L2 tab 3B).
1229 YB90/2.06/6.1
1230 YB90/2.06/6.1
4.135 Mrs Attridge forwarded these comments to Mr Robert Lowson, Head of Animal Health Division, MAFF, with a short note saying:

I would welcome your views on presentation. We need to be sure Local Authorities are enforcing the Regulations. The split between divisions is awkward.\textsuperscript{1231}

4.136 By this time MAFF had been sent Mr Corbally's letter describing difficulties encountered by EHOs (see paragraph 4.123). On 19 February 1990, Ms Bronwen Jones sent a minute to Mr Meldrum at the request of Mr Griffiths, attaching a draft minute for him to send to the Permanent Secretary explaining the background and current position on advice on the SBO Regulations.\textsuperscript{1232} In the draft minute the following appeared:

1. The Bovine Offal (Prohibition) Regulations came into force on 13 November 1989. Copies were sent to Chief Environmental Health Officers in District Councils in England and Wales. No advice on their application was issued at the time because it was felt that the Regulations were clear and that since the provisions followed closely those for dealing with unfit meat they would therefore be largely familiar to enforcement authorities.

4.137 The draft then referred to concerns which had been raised by Carrick District Council regarding head-splitting, and to the study carried out by the SVS on brain removal techniques. We look at these aspects in the first main section of this chapter. The draft continued:

3. It is now our intention to circulate immediate advice based on this study to RMHAs. This will be followed up by more formal guidance to local authorities on this and any other matters of concern to them on the offal ban after officials have met the Institute of Environmental Health Officers to discuss the Regulations (currently being arranged at their request) . . .

4.138 At the top of Ms Jones's covering minute, Mr Meldrum appears to have written the words, ‘Not pursued’, with the date ‘27.2’.

4.139 We have noted in paragraphs 4.126–4.127 the meeting on 9 April 1990 between Mr Baker and Mr Corbally of the IEHO to discuss concerns about the SBO Regulations,\textsuperscript{1233} followed up by Mr Corbally's letter of 18 April.\textsuperscript{1234}

4.140 On 2 May 1990, Mr Griffiths minuted the Private Secretary to Mr David Maclean.\textsuperscript{1235} We return to this minute in the first main section of this chapter. Here we note that Mr Griffiths said that he, Mr Meldrum and Mrs Attridge recommended that the Government should not introduce legislation to ban the removal of brain before head meat, but that it should ‘rest on guidance to LAs’. He also said in his minute that the amendment regulations would ‘fuel debate on BSE generally and, inevitably, lead to demands for similar action on spinal cords’.

\textsuperscript{1231} YB90/2.06/6.1
\textsuperscript{1232} YB90/2.19/11.1–11.3
\textsuperscript{1233} YB90/4.09/1.1–1.3
\textsuperscript{1234} YB90/4.18/4.1–4.4
\textsuperscript{1235} YB90/5.02/1.1–1.2
4.141 We noted in paragraph 4.127 that on 18 May 1990, Ms Bronwen Jones wrote to Mr Holmes of Carrick District Council in response to concerns that he had raised about the SBO Regulations.\textsuperscript{1236} So far as guidance is concerned, we observe here that in her letter she said:

Liaison with [IEHO] is maintained in all aspects of the Bovine Offal (Prohibition) Regulations 1989 with a view to ensuring that the controls provided for work as smoothly and effectively as possible. We have recently discussed their operation with IEHO and invited any suggestion for improved controls.

4.142 On 21 May 1990, Mr Griffiths of the Meat Hygiene Division provided for Mr Gummer the briefing note we mentioned at paragraph 4.87 on inspection at slaughterhouses. He referred specifically to SBOs:

Local authorities are responsible for ensuring that the provisions of the Bovine Offals (Prohibition) Regulations are observed. The Ministry has been offering advice, where requested, to individual local authorities on the regulations and on good practice in observing them.\textsuperscript{1237}

4.143 He concluded that the ‘line to take’ should be:

LOCAL AUTHORITIES ARE ALSO RESPONSIBLE FOR ENSURING THAT THE PROVISIONS OF THE BOVINE OFFALS (PROHIBITION) REGULATIONS ARE OBSERVED STRICTLY. THE MINISTRY IS READY TO GIVE ADVICE IF NEEDED AND WE ARE CONSIDERING THE ISSUE OF GUIDANCE.\textsuperscript{1238}

4.144 In a Q&A brief for the Parliamentary debate on BSE on 21 May 1990, the following draft answers appeared:\textsuperscript{1239}

CHAPTER IV – OFFAL BAN

. . .

9. WHY HAS NO GUIDANCE BEEN ISSUED?

THE REGULATIONS ARE QUITE CLEAR AS TO WHAT MUST BE DONE WITH SPECIFIED BOVINE OFFAL. WHERE ADVICE HAS BEEN REQUESTED MAFF STAFF HAVE PROVIDED IT: IN ONE PARTICULARLY DIFFICULT AREA (THE REMOVAL OF BRAINS) WE HAVE RESPONDED BY CARRYING OUT OUR OWN RESEARCH. WE CONCLUDED THAT ADVICE WAS NEEDED AND GUIDELINES ARE AT PRESENT BEING CLEARED WITH OTHER DEPARTMENTS. THE REGULATIONS ARE BEING KEPT UNDER REVIEW TO SEE IF FURTHER CLARIFICATION OR ADVICE IS NEEDED.

\textsuperscript{1236} YB90/5.18/6.1–6.2
\textsuperscript{1237} YB90/5.21/1.2
\textsuperscript{1238} YB90/5.21/1.2
\textsuperscript{1239} YB90/5.21/28.1–28.40 at 28.7 and 28.9–28.10
CHAPTER V SLAUGHTERHOUSE PRACTICES

... 

2. WHAT IS MAFF’S ROLE?

THE DUTY TO ENFORCE THESE REGULATIONS LIES WITH LOCAL AUTHORITIES. MAFF OFFICERS VISIT EC EXPORT APPROVED SLAUGHTERHOUSES ONCE A MONTH TO MONITOR STANDARDS IN RELATION TO THEIR EXPORT APPROVED STATUS. OTHER SLAUGHTERHOUSES ARE VISITED ANNUALLY TO GIVE ADVICE ON STANDARDS, INCLUDING THE REMOVAL AND TREATMENT OF SPECIFIED BOVINE OFFAL, AND A REPORT IS SENT TO THE ENFORCEMENT AUTHORITY.

...

4. DOES THE VERTICAL SPLITTING OF CARCASSES (I.E. ALONG THE SPINAL CORD) PRESENT A RISK?

VETERINARY ADVICE IS THAT REMOVAL OF THE SPINAL CORD FROM BOVINE CARCASSES MAY BE CARRIED OUT IN AN ACCEPTABLE MANNER. ANY TRANSFERENCE OF SPINAL MATERIAL TO MEAT CAN BE MINIMISED BY EXERCISE OF DUE CARE AND OBSERVANCE OF ESTABLISHED HYGIENE RULES.

5. WHY NOT BAN MRM FROM HUMAN CONSUMPTION?

NOT NECESSARY. THE LAW REQUIRES THAT THE SPINAL CORD AND OTHER SPECIFIED OFFALS MUST BE REMOVED BEFORE THE CARCASS LEAVES THE ABATTOIR. THE CARCASSES AND BONES USED IN THE PRODUCTION OF MECHANICALLY RECOVERED MEAT WILL NOT THEREFORE CONTAIN ANY SPECIFIED BOVINE OFFAL.

4.145 During the House of Commons debate Mr Gummer undertook to refer the question of slaughterhouse practices to SEAC. This led to the preparation of the SEAC paper and SEAC’s advice of November 1990.

4.146 Guidance was subsequently issued by MAFF to local authorities in relation to brain removal, as we shall see later in this chapter.

4.147 On 21 June 1990, Mr Alan Bremner, the Superintending Meat Hygiene Adviser (SMHA), sent a telex to all RMHAs. After dealing with guidance issued on EC export requirements relating to the removal of lymphatic tissue (our third main section below) the telex continued:

They should also ensure full compliance with the Bovine Offal (Prohibition) Regulations 1989 at all slaughterhouses and cutting rooms that they visit. These Regulations should be added to the other Regulations listed at paragraph 10 of the MHI and reported on accordingly.
Will you please send a report to Mr Walker, SMHA, at the end of each month starting at the end of June on the standards of compliance found during the VO visits.\textsuperscript{1240}

4.148 The first paragraph of this related to EC export requirements, including the removal of all obvious nervous and lymphatic tissues. Although the telex appears to have been prompted by concerns about MRM\textsuperscript{1241}, no mention was made of spinal cord.

4.149 Two other sets of guidance were issued during 1990 in relation to the SBO Regulations. The first set was on the safe handling of SBOs, issued in March 1990 to the slaughterhouse and meat preparation industries.\textsuperscript{1242} This guidance was prepared by HSE in collaboration with MAFF and DH. The second set was on the movement and disposal restrictions that applied to SBOs (and other unfit meat) issued by MAFF in June 1990 to local authority waste disposal operators.\textsuperscript{1243}

4.150 In the following sections we explore the consideration given to these various concerns and the actions taken in consequence of them. Separate sections are dedicated to brain removal and to other slaughterhouse practices, and their implications for MRM.

**Concerns during 1990 about brain removal**

**Introduction**

4.151 Although brains were on rare occasions removed from the head in slaughterhouses prior to the introduction of the SBO ban, this was more likely to be done after the head meat had been harvested, rather than before (see vol. 13: *Industry Processes and Controls*). As will be explained in this section, the introduction of the SBO ban encouraged slaughterhouses to remove brain prior to the harvesting of head meat, which brought with it the risk of cross-contamination of meat destined for human food.

4.152 Methods employed to remove brains from bovine heads are discussed in detail in vol. 13: *Industry Processes and Controls*. However, it is useful to describe briefly here the methods under consideration throughout the period covered by this chapter:

i. **Oblique cut through the rear of the skull by an electric or manual saw**: This method opened the skull, so that the brain generally retained its structure and then could be ‘shelled out’;

ii. **Splitting the skull with a band saw**: After head meat had been removed the skull was split using a band saw, bisecting the brain;

iii. **Splitting the skull with a specialised tool**: The Inquiry heard evidence that special tools were available to split heads;
iv. **Splitting the skull with a hand-held cleaver**: There is some doubt whether this method was effective, and it was not widespread in practice;

v. **Expulsion of the brain by a jet of water or air**: This involved introducing the jet via the captive bolt hole, so that the brain was expelled via the cavity at the base of the skull; and

vi. **Suction of the brain**: This was done through the hole made by the captive bolt.

**Bovine Offal (Prohibition) Regulations 1989 (the 1989 SBO Regulations)**

4.153 Bovine brain was designated as SBO, and thus fell within the Regulations’ requirement for immediate staining and sterilisation. However, this did not apply to a brain that was still within a head that was going to be removed from the slaughterhouse to a specialist boning plant for the recovery of meat (other than SBO).

4.154 After removing the meat the head-boning plants had either to:

- sterilise or stain the skull (with the brain still inside); or
- remove the brain from the skull and then sterilise or stain the brain.1244

4.155 The definition of ‘specialist boning plant’ in the 1989 Regulations was limited to premises (not being a slaughterhouse or knacker’s yard) where a business of removing meat was carried on. This also excluded the premises of retail butchers.

4.156 Although the 1989 Regulations referred to removal of the brain from the skull, they were silent as to how this was to be achieved. No other instruction or guidance was provided to slaughterhouses or boning plants on the appropriate method of brain removal. The removal of the brain could be performed:

- at the slaughterhouse, before or after the removal of the head meat by the slaughterhouse;
- at the slaughterhouse, prior to sending the head to a specialist boning plant or butcher for removal of the head meat; or
- at the specialist boning plant, before or after the removal of the head meat by the plant.

**The effect of the 1989 Regulations on the treatment of bovine heads**

4.157 The 1989 Regulations introduced a commercial incentive to remove the brain from the skull. Although brain was SBO, the rest of the head was not. However, with the brain, the entire head had to be treated as SBO. Renderers were not prepared to pay for SBO. In these circumstances slaughterhouses and specialist

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1244 L2 tab 3B Regulation 13
boning plants faced the prospect of paying renderers to collect heads rather than receiving income for them.\textsuperscript{1245}

4.158 This prospect stimulated the practice of brain removal. As the Agriculture Committee of the House of Commons put it:

This practice was accentuated by the introduction of the specified offal ban: abattoirs perceived an economic advantage in attempting to remove the brain from the skull since, by removing the brain, they would have to pay renderers less to take the heads.\textsuperscript{1246}

4.159 Removal of the brain at the slaughterhouse also made the head a more commercially attractive proposition for boning plants, which did not have to deal with the disposal of any SBO.

4.160 Some butchers sent cattle for slaughter on terms that the carcass, including the head, would be returned to them.\textsuperscript{1247} Butchers were not ‘specialist boning plants’ for the purposes of the 1989 Regulations.\textsuperscript{1248} As a consequence, bovine heads could not be returned to butchers unless the brain was removed first, and some slaughterhouses began to remove the brain.\textsuperscript{1249} The practice of bovine brain removal is discussed in vol. 13: Industry Processes and Controls. The economic impact of brain removal is discussed in vol.10: Economic Impact and International Trade.

4.161 In June 1990, the carcass classification and certification staff of the Meat and Livestock Commission (MLC) surveyed 309 slaughterhouses, accounting for 90 per cent of the cattle slaughtered in Great Britain, to examine the handling of bovine heads.\textsuperscript{1250}

4.162 The MLC staff found that in 81 per cent of slaughterhouses the head was despatched ‘untouched’, and of the remainder the majority removed only the cheek meat from the heads, leaving the brain in the skull to be sent out as proscribed offal. In only 33 slaughterhouses – 10.7 per cent of those surveyed, accounting for less than 4 per cent of British cattle slaughtering – was removal of the brain from the head of carcasses attempted.\textsuperscript{1251} This survey did not, however, take account of the incidence of head splitting at the specialist head-boning plants to which presumably the 81 per cent of heads were dispatched ‘untouched’.

IEHO concerns about brain removal

4.163 Shortly after the SBO Regulations came into force, MAFF became aware of the IEHO’s general concerns about the practical implementation of the Regulations, as discussed in paragraphs 4.119–4.130. Issues regarding the contamination of meat for human consumption by brain removal practices were drawn to MAFF’s attention at the same time:

\textsuperscript{1245} T58 p. 51
\textsuperscript{1246} IBD1 tab 7 p. xvii
\textsuperscript{1247} T58 p. 124; YB90/2.01/2.4; YB89/9.25/1.50
\textsuperscript{1248} M41 tab 5: The Federation of Fresh Meat Wholesalers Newsletter, December 1989
\textsuperscript{1249} YB90/2.01/2.4
\textsuperscript{1250} IBD1 tab 7 p. 103
\textsuperscript{1251} YB90/6.20/3.1. An internal MAFF document written in late June 1990 stated that ‘fewer than 8%’ of slaughterhouses were splitting heads in order to remove the brain: YB90/6.26/11.1
Prior to these Regulations bovine heads were often transported to butchers for removal of cheek meat. Under these Regulations, in order to safeguard public health, even after removal of certain SBO the heads cannot be removed from the slaughterhouse for the purposes of recovering meat whilst the brain is still contained within the head except where it is to be removed to a specialist boning plant under a movement permit.

We are aware of a number of practices circumventing this restriction whereby the brain is removed for staining or sterilisation thereby allowing free movement of the head. Furthermore, the practice of removing the brain from the skull appears to be a necessary one for many small slaughterhouses who undertake contract killing on behalf of butchers who demand the return of the bovine head. The fact that many abattoirs are not geared up for this operation has resulted in a number of, what the Institution believe to be, unsatisfactory practices and which, until we became aware of a Ministry letter to Carrick District Council on this subject, we were sure the Ministry would not themselves condone. These practices include:

The splitting of the head with cleavers;

The use of bandsaws to split the heads;

The use of low pressure hose jets;

Removal of brain through the stun hole by suction.

Not only do the first two practices involve significant health and safety implications, none of the four can guarantee the effective removal of the brain, without the result of contamination of the head.

In order to prevent these practices and ensure that any risk of contamination is kept to a minimum, the Institution considers that the removal of the brain should be prohibited. It could be argued that the most satisfactory method of maintaining public safety and the means by which the dual standard for the brain can be removed is to stipulate that all head meat (tongue, cheek) can only be removed at the slaughterhouse, where the process can be controlled effectively, after which time the head should be stained or sterilised and disposed of as with other SBO.

Views of OVSs about possible contamination of head meat by bovine brain

4.164 The Inquiry heard evidence from veterinarians who worked as OVSs at slaughterhouses about the possible contamination of head meat by bovine brain during transport of heads to head-boning plants or butchers. In particular, brain material could leak through the captive bolthole in the skull onto the head meat. One veterinarian told us:

The leaking of brain material through the stunning hole was quite evident at this, when this process was being done . . . It was quite obvious, we both

1252 YB90/2.01/1.4–1.5
observed this at the time, that brain material was leaking onto the cheek meat that was then going to be recovered for human consumption at the boning plant.\textsuperscript{1253}

\textbf{4.165} We also heard evidence of heads being transported with other meat, raising concerns about possible contamination of this meat in transit. Another veterinarian told us:

The heads were taken away for further processing from our abattoir. I think the only problem that worried me about it was the contamination of those heads with other meat shipped at the same time, and also contamination from the captive bolt hole in the head as well, the contents would come out of the hole. I tried to be very strict in the way they were transported, those heads, but unfortunately you were not always able to supervise it.\textsuperscript{1254}

\section*{MAFF officials’ advice}

\textbf{4.166} In January 1990, Mr Matthew Taylor, the Liberal Democrat MP for Truro, sought a meeting with Mr Gummer to discuss brain removal. This had been stimulated by the concerns expressed by the EHO from Carrick District Council (see paragraph 4.120). Mr Gummer sought advice from his officials.

\textbf{4.167} Mr Lowson advised that the Regulations did not encourage brain removal, but said: ‘There may be commercial reasons why slaughterhouse operators have adopted this method of removing brains’. He also acknowledged that if care was not exercised when removing brains there was ‘a possibility’ that brain tissue might be transferred to head meat, but said that there were techniques available which minimised this. Therefore, there was ‘no reason to prohibit the use of head meat from animals whose skulls have been opened’. He stated that the concerns raised ignored the important point that the offal ban was a precautionary measure. It was aimed at the very few cattle, if any, that had eluded the monitoring arrangements or had yet to exhibit clinical signs. In subclinical cases the agent was not usually found in the brain until the later stages, so, ‘even putting aside the fact that the risk for humans from BSE is remote, the risk from contamination of head meat by brain tissue must be almost negligible’.\textsuperscript{1255}

\textbf{4.168} To help assess the validity of the complaints being received, in early February Mr Stephen Hutchins, SVO, Red Meat Hygiene Division, MAFF,\textsuperscript{1256} visited selected abattoirs to review brain removal methods. His report to Mr Keith Baker concluded that the ‘very small amounts of a bone paste that would have included traces of brain tissue’ produced by three different methods of sawing through the head and brain might be transferred to cheek meat, ‘but only in tiny quantities’. An alternative method involving the use of water and air jets posed ‘some risk’ of contamination and ‘represented the least hygienic method witnessed’. However, he saw no reason for prohibiting the ‘open-skull’ methods provided saws and work surfaces were adequately cleaned down between heads.\textsuperscript{1257}

\begin{footnotes}
\item[1253] T62 pp. 102; Ms Hovi, Official Veterinary Surgeon
\item[1254] T62 pp. 101; Mr Burgess, Official Veterinary Surgeon
\item[1255] YB90/1.19/10.1
\item[1256] March 1987 to August 1991, then Deputy Veterinary Head of Section, MHS, August 1991 to July 1993
\item[1257] YB90/2.09/1.2–1.3
\end{footnotes}
4.169 In a statement to the Inquiry Mr Meldrum said that he was happy to accept Mr Hutchins’s advice. On 13 February 1990, he asked Mr K Baker to include advice on the removal of bovine brain in a Food Safety and Hygiene circular. He felt that MAFF should not ‘delay too long in offering advice to local authorities on brain removal’.1258 Thereafter, as noted at paragraph 4.136–4.138 above, a draft minute to the Permanent Secretary was prepared, but this appears not to have been pursued.

Ministerial involvement

4.170 Mr Gummer met with Mr Matthew Taylor on 15 February 1990, and ‘undertook to organise a review of the contrasting arguments put forward by the EHOs and the SVS’. He would ‘invite a suitable outside expert to advise him’.1259

4.171 Mrs Attridge was given responsibility for the preparation of the review. In a minute to Mr Gummer’s Private Secretary, she suggested that ‘unless the Minister made a specific point of an “outside” expert’, Mr Hutchins’s report should be sent to Mr Taylor.1260

4.172 Mr Gummer first received a copy of Mr Hutchins’s report on 23 February 1990, under cover of a minute from Mr Derek Andrews. Mr Andrews noted that Mr Gummer had queried why the cheek meat could not be removed before the splitting of bovine heads and said:

There is nothing in the regulations to prevent head splitting at the slaughterhouse which seems to be a fairly widespread practice in the South-West. If we were to amend the regulations to prohibit this, it would be likely to simply shift the argument from the splitting of heads to the splitting of spines where the same sort of issues could be raised.1261

4.173 Regarding Mr Gummer’s request for advice from an outside expert, Mr Andrews suggested that Dr David Tyrrell, Chairman of SEAC, was not ‘necessarily an appropriate person to provide expert judgement on butchery practices’, and recommended Mr A M Johnston, senior lecturer at the Royal College of Veterinary Surgeons.

4.174 Mr Gummer agreed to this,1262 and Mr Meldrum wrote to Mr Johnston on 1 March 1990 enclosing Mr Hutchins’ report. He asked whether Mr Johnston ‘could let us, as an independent expert, have your assessment of this report’.1263

4.175 Mr Johnston sent his report to Mr Meldrum on 7 March 1990. This expressed reservations with all the methods identified in Mr Hutchins’s report, especially the high-pressure water/air method: ‘I am convinced that this method is not acceptable if contamination of the meat on heads is to be avoided’. He concluded that ‘whenever possible, meat intended for human consumption should be removed before any saw cut which enters the cranium is made’.1264
Mr Maclean expresses his view on head-splitting

4.176 On 15 March 1990 the views of the Food Safety Minister, Mr David Maclean, on the issue were communicated to Mr Lowson. Mr Maclean felt that:

[T]here appears to be an obvious weakness in that although we say that head meat can, in theory, be removed safely by a slaughterhouse operative using a saw, it is very difficult to convince the public that the meat spattered with brains is perfectly safe if wiped down. 1265

4.177 Mr Maclean’s conclusion was that it was ‘rather a vulnerable point which might not be worth defending merely to retrieve some small quantities of head meat’. 1266 In his statement to the Inquiry, Mr Maclean emphasised that he had been told the risks were remote, since the animals concerned were healthy, but he ‘wanted to make sure officials were following up every aspect of the matter fully’. 1267

4.178 In response to Mr Maclean’s view, Mrs Attridge provided estimates of the annual worth of head meat. Cheek meat was valued at £6.8 million annually, and tongue £17 million. She noted that the only difficulty posed was when the head was sent to a boning plant after the brain had been removed, upon which specific advice was being given. She therefore hoped ‘that we will be able to continue with the retrieval of head meat and tongue provided that the methods used present no risk’. 1268

Development of guidance note on brain removal for local authorities

4.179 On 29 March 1990 Ms Jones distributed a first draft of a guidance note to local authorities on head-splitting, which was intended to take into account Mr Hutchins’ and Mr Johnston’s reports. The note explained that:

Brains may be removed at the slaughterhouse, in which case there are no further requirements in the Regulations governing the removal of head meat. Concern has been expressed that the practice of removing brains before the head meat is removed gives rise to the risk of cross-contamination of that meat with brain tissue. Since the brain tissue in question is from healthy animals, it follows that the risk is in any case negligible. 1269

4.180 However, the guidance included the following principles which, if followed, ‘will ensure that any transfer of brain tissue to meat is kept to an absolute minimum’:

Where possible head meat intended for human consumption should be cut from the skull before any cut is made into the skull to remove the brain.
Where this is not possible, heads should be opened in such a manner that the possibility of brain tissue being spread to meat is kept to an absolute minimum.

It is recommended that the removal of the brain should take place within 24 hours of slaughter. Where this is not possible skulls should be stored prior to opening under chilled conditions.\textsuperscript{1270}

4.181 The guidance also included ‘recommended techniques’:

The preferred technique \textit{for} opening the skull prior to brain removal is an oblique cut through the skull with a reciprocating saw, from a line immediately anterior to the normal site of the captive bolt hole (but avoiding the hole itself) to a line immediately above the foramen magnum. This will allow the easy removal of the brain without exposing meat to the possibility of contact with the minimum amounts of brain tissue that might escape from the skull during the sawing operations.

If this method of removal is unavailable the skull may be split along the middle of the head of the median plane with a band saw. Before this technique is employed, all the meat from around the area of the hyoid bones and the base of the skull should be removed.

Methods involving the use of high pressure water jets to remove brain tissue from otherwise intact skulls are \textit{not} recommended in view of the amount of splashing of brain tissue and water that occurs.\textsuperscript{1271}

4.182 Ms Jones forwarded the draft guidance to Mr Maclean on 4 April 1990.\textsuperscript{1272}

Meeting with IEHO

4.183 The IEHO’s opposition to head-splitting was discussed during its meeting with MAFF officials on 9 April 1990 (see paragraph 4.128). However, MAFF officials explained that veterinary studies of methods used indicated the operation could be performed safely if some basic principles were followed. They said guidance on those principles was being prepared.\textsuperscript{1273}

4.184 In his follow-up letter to the meeting (see paragraph 4.129), Mr Corbally reiterated that ‘action should be taken to control the removal of the brain from the skull’. While the IEHO welcomed MAFF looking into a practice ‘not considered at the time the Regulations were drawn up and implemented’, their view was that ‘none of the practices that we have identified can guarantee \textit{no} contamination with brain tissue . . . of either the head, equipment or environment’. Accordingly, ‘we believe that the only way of minimising the risk to public safety is to prohibit removal of the brain’.\textsuperscript{1274}

4.185 Mr Corbally concluded:
Despite this view, if a practice can be identified where the brain can be removed with no risk of contamination and no risk to the safety of the operator, consideration should certainly be given to its use. However, guidelines detailing the procedure to be followed must be developed and brought to the attention of all operators and enforcement officers.1275

**Ministers’ reservations allayed**

4.186 Mr Maclean and Mr Gummer questioned the line being followed by MAFF officials. On 27 April 1990, Mr H P Hill, Private Secretary to Mr Maclean, informed Mr Griffiths of the Meat Hygiene Division that the Ministers:

[H]ave some qualms about the practice of removing brains (splitting the heads) before the head meat, because of the risk of cross-contamination. The Minister is inclined to feel that if there are two other quite satisfactory practices available and there are any doubts about this practice, then we should ban it.1276

4.187 On 1 May 1990 Ms Jones distributed to senior MAFF officials a draft reply to Mr Hill, advising against legislative provisions to restrict the removal of brains. Ms Jones recommended that the wording of the guidance be strengthened to emphasise that wherever possible head meat should be removed before the brain was removed.1277

4.188 Mr Griffiths responded to Mr Hill the next day (paragraph 4.140 above). Following Ms Jones’s draft, he stated that if the procedures recommended in the draft guidance were followed, there would be minimal risk of contamination. If these procedures were banned, the commercial consequences for some slaughterhouses and specialist boning plants could be serious, and industry interests would ‘demand justification for the prohibition when the risks of contamination are minimal’. Further, it would ‘provoke media interest out of all proportion to the minuscule nature of the problem’. He continued that ‘amendment regulations would fuel debate on BSE generally and, inevitably, lead to demands for similar action on spinal cords’. Mr Griffiths recommended that ‘action should not be taken either to ban the removal of brains before head meat is recovered or to legislate on the methods which may be used, but to rest on guidance to LAs’. The CVO and Mrs Attridge concurred.1278

4.189 The next day Mr Hill noted on Mr Griffiths’s minute, for the benefit of Mr Gummer, that:

In the light of the Minister’s recent discussion with the Parliamentary Secretary (Mr Maclean) we have commissioned further advice on procedures for splitting heads. In the light [of] Mr Griffiths’ minute above, Mr Maclean has agreed that we ought not to ban the removal of brains before head meat is recovered, or to legislate on the methods, but that we should strengthen the guidelines. Does the Minister agree?1279

1275 YB90/4.18/4.2
1276 YB90/4.27/1.1
1277 YB90/5.01/3.2
1278 YB90/5.02/1.1. There was concern from some quarters that splitting bovine carcasses along the spine could result in contamination, as could residual spinal cord. MAFF took the view that removing all visible spinal cord was acceptable in health terms.
1279 YB90/5.02/1.2
4.190 Ms Jones circulated among MAFF officials for comment a further draft of the guidance to local authorities, on 16 May 1990. She noted that Ministers had agreed the general thrust of the advice, and that Mr Maclean wanted to announce the issuing of the guidance as a formal circular by way of a Parliamentary Question.\textsuperscript{1280}

### Further concerns expressed

4.191 The same day the IEHO released a policy document on BSE, which was circulated to every local authority in England, Wales and Northern Ireland.\textsuperscript{1281} Though accepting that in general there was no proven risk to the public, it stated:

> However, the Institution would re-iterate its concern over the practice of removing, or otherwise handling, the brain of the bovine animal which we view as a potential risk to public health. The practice is not necessary and should be expressly prohibited.\textsuperscript{1282}

4.192 On 21 May 1990 Mr Maclean, Mr Meldrum and other MAFF officials met with representatives of the meat industry and retailers to discuss BSE. On head-splitting, retail representatives suggested that public fears might be laid to rest if the heads were removed completely, so that meat was not recovered in the slaughterhouse. Mr Meldrum explained that:

- only healthy heads were used;
- head splitting could be done safely;
- a change in policy would undermine the current position; and
- the value of cheek meat was not insignificant.\textsuperscript{1283}

4.193 The minutes of the meeting also record that Mr Maclean:

> Explained that the animal heads were removed from the carcass and usually taken to another place, where the head meat could be extracted safely.\textsuperscript{1284}

4.194 Industry representatives then suggested that MAFF should issue a further statement to clarify the situation regarding head-splitting practices and the consumption by humans of specified offal. At the meeting’s conclusion it was agreed that a copy of the guidelines on head-splitting should be sent to retailers at the same time as they went to EHOs.\textsuperscript{1285}

4.195 On 21 May 1990 Mr Griffiths of the Meat Hygiene Division reported to the Minister responding to a request that he had received for advice as to the powers of inspection of Ministry officers into meat plants.\textsuperscript{1286} In relation to SBOs he stated:

> Local authorities are responsible for ensuring that the provisions of the Bovine Offals (Prohibition) Regulations are observed. The Ministry has
been offering advice, where requested, to individual local authorities on the regulations and on good practice in observing them. A particular problem raised by some local authorities has been the techniques for the removal of brains from bovine skulls with least risk of contamination. Guidance for local authorities on good practice is being drawn up following investigations by SVS staff and, subject to clearance by Department of Health, should be ready for issue within a few days. Local authorities are likely to respond to any suggestion that they may not be ensuring strict observance of the regulations with the criticism that the Ministry has dismissed their concerns that the regulations are not strict enough to avoid the possibility of contamination of meat with specified offal. 1287

4.196 The same day Dr Ruth Jacobs, SMO,1288 and Mr Ronald Alexander, EHO,1289 both of the Welsh Office, expressed concerns about brain removal to Mr Alan Huws, Agriculture Grade 7 in the Welsh Office.1290 They felt that ‘the practice of removing the brain of the bovine animal should be expressly prohibited’.1291 Two days later Mr Huws wrote to Ms Jones saying: ‘I have consulted with both veterinary and medical colleagues about the proposed guidance . . . [and] feel that it would be better if the head meat was only removed with the skull intact’. 1292

4.197 Concerns about contamination of meat from brains continued to be raised during June 1990 from sources outside central government. For example, on 21 June Mr Felix Hetherington, the County Secretary and Solicitor (County Trading Standards Office, Newport, Isle of Wight), wrote to Mr Gummer urging him, among other things, to implement changes to slaughterhouse procedures to ensure that brain and spinal tissues did not contaminate meat. He added that the suggested measures would boost public confidence in British meat. 1293

Parliamentary debate on Government’s handling of BSE

4.198 On the night of 21 May 1990, there was a debate in the House of Commons on the Government’s handling of the BSE outbreak. During the debate, Mr Gummer informed the House that:

[T]wo months ago I asked for expert veterinary advice on the removal of brains in slaughterhouses. It has now come. This broadly supported current practices, but I am asking the Tyrrell committee to consider this, and any other aspects of slaughterhouse practices that it feels may be relevant to the problem. 1294

4.199 Later in the debate, Mr Matthew Taylor explained to the House his concerns about head-splitting and brain removal, and pointed out that during his meeting with Mr Gummer in February he had been assured that expert advice would be sought on the issue. The Minister’s mention during his speech of referring the issue to the Tyrrell Committee was the first he had heard since. Mr Taylor went on to emphasise

1287 YB90/5.21/1.2
1288 September 1989 to August 1992
1289 Mr Alexander was also Chief EHO from 1990
1290 Mr Huws was Head of Farm Animal Health and Welfare Branch March 1990 onwards
1291 YB90/5.21/17.1
1292 YB90/5.23/8.1
1293 YB90/6.21/9.1
1294 M7 tab 9 p. 90
that if brain material was splattered on equipment and meat intended for human consumption, it was naive to think that washing the meat and equipment with water would remove the infective agent. Mr Gummer responded:

I thank the hon. Gentleman for his comments about what I have done. I hope that he recognises that the matter has gone to the Tyrrell committee because our expert advice is that what we are doing is in general perfectly acceptable. However, I do not want there to be a scintilla of doubt.

4.200 Later Mr David Maclean pointed out that:

Heads are removed from animal carcasses before the splitting of them for the extraction of head meat. Again because we have an open mind, we will happily take any further advice that Tyrrell may give.

4.201 He added:

The Government’s policy is based on the best scientific advice available. Our safety precautions are like my famous belt and two pairs of braces. First, we destroy all the cows with BSE and do spot checks in markets and abattoirs. The ultimate precaution is that we cut out the brain, spinal cord and other specified offal from every cow in the slaughterhouse to be ultra-safe.

Action taken following the debate

4.202 The next day Mr Gummer and Mr Andrews met and agreed that Dr Tyrrell should be invited to consider the draft guidelines on the splitting of bovine heads.

4.203 Also on 22 May 1990, Mr Keith Baker sent a telex to all Divisional Veterinary Officers (DVOs) in the UK. It stated that:

We continue to receive reports about bovine brains being removed at some slaughterhouses using high-pressure water hoses.

We have investigated the method in question and advised that it is not acceptable in view of the extent of splashing of brain tissue and water that occurs.

Fuller guidance on this matter will be issued as soon as possible. In the meantime I should be grateful if any similar queries received by you and your staff could be answered in the manner suggested above.

RMHA’s should be in a position to offer advice, where necessary, on the most appropriate techniques but the optimum is to remove head meat prior to brain removal.
4.204 SEAC considered head-splitting guidelines during its 13 June 1990 meeting. The guidelines were essentially the same as those produced by Ms Jones earlier (see paragraphs 4.177–4.181). However, there were some drafting amendments, which had been effected under Mr Andrews’s chairmanship on 23 May 1990, to emphasise that head meat intended for human consumption should be removed prior to the brain being removed, and high-pressure water hoses should not be used to remove brain tissue. SEAC concluded that:

[P]recautions about the removal of the brain from bovine skulls was a common sense measure. It was not consistent with this policy to permit the removal of the brain before head meat was harvested.1302

4.205 On the same day MAFF officials met with the Minister and Parliamentary Secretaries, David Maclean and Mr David Curry, primarily to discuss EC requirements in relation to the export of beef. In the course of the meeting, Mr Gummer said that, following SEAC’s advice that all head meat should be removed from the intact head, he would like to see guidelines issued to this effect.1303

4.206 On 14 June 1990 Mr Meldrum sent a telex to all DVOs and RVOs in England, Scotland and Wales, all RMHAs, and a number of industry, retail and professional bodies. This included the following guidelines:

As a result of a detailed evaluation of practices currently in use in slaughterhouses and boning plants the Ministry of Agriculture, Fisheries and Food has concluded that bovine head meat must be recovered from the intact skull before the brain is removed.1304

4.207 Vol.13: Industry Processes and Controls should be referred to for discussion of how practices in slaughterhouses changed in response to this guidance.

Agriculture Committee Inquiry into BSE: consideration of brain removal

4.208 Our overview at the start of this chapter noted that the House of Commons Agriculture Select Committee decided to undertake an investigation into BSE on 16 May 1990. In the following paragraphs we describe the concerns expressed about brain removal in evidence and submissions to the Committee. Later on in this chapter we revisit the evidence received by the Committee in relation to MRM (see paragraphs 4.253–4.259) and in relation to the safety of beef (see paragraphs 4.626–4.639).

4.209 During evidence to the Committee, Dr Tyrrell discussed SEAC’s consideration of head-splitting practices. He noted that these practices could lead to contamination of meat for human consumption, and continued:

It is, therefore, inconsistent to say, ‘We want to prepare the meat so that it can be safely eaten even if the animal is infected’ and then contaminate it...
again in the process of preparing it . . . Our conclusion was that it should not be allowed. 1305

4.210 On 20 June 1990 Mr Meldrum informed the Committee that SEAC’s advice had gone out to local authorities through DVOs on 8 June. He continued that that advice would be formalised shortly in a written form to local authorities together with, he suspected, ‘further advice on good hygienic practices relevant to slaughterhouses and BSE’. Mr Meldrum also suggested that it would have to be considered whether to change from the informal advisory position and ‘make it a formal position so the head meat can only be removed from the intact skull’. 1306

4.211 The IEHO’s evidence to the Committee stated that brain removal was ‘not necessary and should be expressly prohibited.’ 1307 In oral evidence, Mr Nicholas Hibbett of the IEHO noted that the MLC’s survey (see paragraphs 4.161–4.162) confirmed that head-splitting was occurring, but there was no reasonable cause for it – ‘it is a simple expediency which, in our view, is not necessary’. 1308

4.212 In its report the Committee said that an area of particular concern was that action making the ban on specified offals as watertight as possible be taken. In particular:

We do, however, feel in a position to recommend that the practice of splitting the heads of cattle in abattoirs be outlawed. It brings no significant benefits to anybody and is practically guaranteed to spread public alarm.

We were pleased to note that Dr Tyrrell voiced similar reservations about the latter practice. Recent MAFF guidelines also stipulate that ‘bovine head meat must be recovered from the intact skull before the brain is removed’. This is a substantial step in the right direction, although we would like to see appropriate safeguards enshrined in legislation at an early opportunity. 1309

Government’s response to the Select Committee recommendation

4.213 On 24 July, Mr Lowson prepared a draft response to the report, which he circulated widely within MAFF. He noted that the Select Committee had recommended that the practice of splitting heads in the abattoir should be outlawed, but suggested Ministers might like to consider the issuing of ‘guidance to Local Authorities and operators that brain removal should be undertaken so as to avoid the risk of cross contamination’. 1310

4.214 Mr Maclean did not agree with this approach and ‘felt that we should legislate on the practice of head splitting, as recommended by the Select Committee’. 1311 A meeting was held with the Minister and it was agreed:

1305 IBD1 tab 7 p. 84
1306 IBD1 tab 7 pp. 125–6
1307 IBD1 tab 7 p. 115
1308 IBD1 tab 7 p. 116
1309 IBD1 tab 7 pp. xvii–xvii
1310 YB90/7.24/13.3
1311 YB90/7.25/7.1
We should respond as positively as possible to the Select Committee’s recommendation on this point. There should be no problem concerning legislating for the removal of head meat before brain removal. It would be desirable to issue guidance and to legislate on removing brains so that they could not contaminate the remainder of the meat, if that were possible.  

4.215 Meanwhile, Dr Tyrrell wrote to Mr Gummer on 23 July communicating SEAC’s advice in relation to brain removal from bovine skulls. He stated:

...the specified offals ban...is designed to remove certain nervous and lymphatic tissue, including brain, from the human food chain. To be consistent, slaughtering practice should therefore ensure that possibly infected brain and spinal cord material does not contaminate muscle tissue destined for human consumption. Various procedures such as sawing the skull open or driving the brain out by water pressure would disperse brain tissue that could contaminate the meat and would not be satisfactorily removed by washing. Such procedures should therefore be carried out in such ways and places that contamination of meat does not occur. We therefore recommend, as far as bovine heads are concerned that head meat should be removed from the skull before the brain is removed.  

4.216 On 21 November 1990 the Government published its response to the Agricultural Select Committee’s report and recommendations, noting the recommendation that head meat should be removed from the intact skull before the brain is removed:

The Government accepts the principle of these recommendations. An amendment will be made to the Bovine Offal (Prohibition) Regulations 1989. It will lay down that head meat must be recovered from the intact skull before the brain is removed, thereby avoiding any possibility of contamination through brain tissue.

Bovine Offal (Prohibition) (Amendment) Regulations 1992

4.217 The Bovine Offal (Prohibition) (Amendment) Regulations 1992 came into force on 12 March 1992. These Regulations:

- prohibited the removal of any meat for human consumption from the head of a bovine animal after the skull had been opened or the brain had been removed;
- prohibited the removal of the brain from the head of a bovine animal in a slaughterhouse or boning plant except in a specific area which at no time was used for food for human consumption; and
- permitted those bovine heads from which the brain had not been removed to be moved under a movement permit to premises of a processor or a place of storage before transfer to a processor.
Discussion

4.218 We have not felt that anyone involved in the consideration of head splitting and brain-removal performed so poorly as to merit criticism. At the same time it is right to observe that on this topic the Ministers’ instinctive reaction was more satisfactory than MAFF officials’ reasoning.

4.219 Prior to the SBO ban the brain would normally remain within the skull and both would go off to be rendered for animal feed. There was, and still is, uncertainty as to how often brain was removed from the head in order to be used for food, but on any footing this was a relatively rare occurrence. Brain was made an SBO to cover those rare cases.

4.220 It was an irony that a regulation designed to keep brain out of the food chain immediately resulted in some slaughterhouses splitting the skull and removing the brain in circumstances that could lead to contamination of meat that would go for human consumption. When this was finally drawn to SEAC’s attention, they concluded that it needed no more than common sense to see that this practice should be stopped.

4.221 In formulating a proposed policy for Mr Griffiths, Ms Jones was entirely dependent upon the advice of Mr Hutchins and Mr Johnston; she told us that she had never herself entered a slaughterhouse. We believe that she, and Mr Griffiths who adopted her reasoning, as well as Mrs Attridge and Mr Meldrum who concurred, erred in judgement when weighing the pros and cons of a ban on removing brain before the head meat.

4.222 The effect of guidance to local authorities as to techniques of brain removal, or the desirability of removing the head meat first, was problematical in the absence of any mandatory scheme, particularly when introduced by the statement that the risk was in any case negligible. Apprehensions as to the public reaction to a requirement that head meat be removed before brain were exaggerated. We are inclined to think that the thought that the Regulations were precautionary measures going beyond Southwood tended to obscure an objective approach to the application of the precautionary principle.

4.223 The Ministers were justified in their reservations and did well to call for independent advice. Subsequently Mr Gummer decided to refer this question to SEAC. SEAC was not an appropriate body to consider technical questions of head-splitting techniques. It was, however, well qualified to express a view as to whether risks of contamination from such practices were acceptable.

4.224 In a letter to Mr Huws, Ms Jones explained that SEAC ‘have not been presented with the arguments for or against the ban on the practice of head-splitting, but have been left to form their own view on the technical aspects of this issue’. SEAC did not enjoy expertise in slaughterhouse practices, but it was able to address the question of whether the risk of contamination from the practices as described could be disregarded as negligible. Having decided that it could not, it concluded that common sense dictated the answer. SEAC’s recommendation was clearly a correct application of the ALARP (As Low As Reasonably Practical) principle.
4.225 This was a robust recommendation reached without a sophisticated process of risk evaluation. A reasoned process of risk evaluation would have involved:

i. Information on the extent to which the operation of brain removal might involve risk of contamination of head meat.

ii. Consideration of the likelihood that contamination on this scale would pose a risk to human health.

iii. A balance of potential risk against the financial consequences to the meat industry of a ban on the practice of removing brain before the head meat had been recovered.

4.226 We do not believe that MAFF officials carried out such a process before the matter was referred to SEAC. They simply seem to have assumed that, provided Mr Johnston’s guidelines were followed, contamination would not pose a significant risk. No attempt was made to calculate the financial consequences of a ban on removing brain before head meat, in order to weigh those in the scale.

4.227 SEAC for its part appears to have assumed that contamination might be significant, without making any quantification of what this would involve. No attempt appears to have been made to acquaint SEAC with the financial implications of the policy decision.

Slaughterhouse practices and MRM

Introduction

4.228 In the previous section we have traced the consideration given to brain removal up to the resolution of the issue as a result of SEAC’s robust advice on 13 June. In this section we shall see how other slaughterhouse practices were referred to SEAC, with a less satisfactory outcome.

4.229 Of particular concern was the recovery of MRM from the bovine vertebrae. We explained in Chapter 3 how this matter did not receive the attention it deserved in 1989. Here we recall that concerns that the operation of splitting the carcass could contaminate meat intended for human consumption, and render it inadvisable to use the vertebral column as a source of human food, were raised in April 1989 in Mr Bradley’s note to Dr William Watson. Similar concerns in relation to the proposed SBO ban were raised during the consultation process.

4.230 These concerns continued after the SBO Regulations were introduced. In the general section at the outset of this chapter we described the expression of concern about this practice on the part of the IEHO in April 1990 (see paragraph 4.128). Concerns were expressed about this practice from various other quarters throughout 1990, not least on the part of some who provided evidence and submissions to the Agriculture Committee of the House of Commons which sat in May and June to inquire into BSE. We propose to summarise the concerns about MRM from these...
various quarters before turning to the concerns expressed in evidence and submissions to the Committee.

**Concerns raised about MRM during 1990**

4.231 On 6 February 1990, Ms Sarah Rimmington of the Meat Hygiene Division wrote to Mr Stephen Hutchins on MRM. She said that:

In a recent BBC radio programme (‘Face the Facts’, Radio 4, 29.1.90), Mr Martin Cooke, OVS, was interviewed in connection with BSE. He commented that bovine vertebrae were particularly high-yield sources of MRM and that since they would contain residual spinal cord that would then be incorporated into MRM-based meat products, neither he nor his family would in future be eating such products.1322

4.232 Mr Hutchins forwarded the minute to Mr Keith Baker the next day saying he would welcome the opportunity to discuss the issue. He commented that it was a situation ‘in some ways analogous to head splitting, although the “risks” of neural tissue reaching the consumer seem greater with MRM’.1323

4.233 Mr K Baker suggested that MRM was another subject for discussion regarding the issue of advice to the industry. He thought they should await the outcome of their deliberations on related matters before taking action.1324

4.234 On 9 February 1990, Mr Hutchins replied to Ms Rimmington. He explained that:

I understand from the CVO that this question was discussed with DoH. It was agreed that it did not pose a health risk and that a ban on the use of spinal columns for MRM production was not justified.1325

**Parliamentary Question on MRM**

4.235 Mr Matthew Taylor tabled a Parliamentary Question for written answer on 20 February 1990. He asked if the Minister would ‘take steps to ensure that the process of stripping animal bones to obtain mechanically recovered meat entails no risk of spinal tissue being included in the final product’.1326

4.236 The reply to the PQ stated that:

As an ultra-precautionary measure my Department introduced the Bovine Offal (Prohibition) Regulations 1989, which prohibit the use of spinal cord and other specified bovine offals in food for sale for human consumption. In practice the spinal cord would be removed before recovery of MRM. Animals displaying symptoms of BSE are required to be slaughtered and disposed of so that they do not enter the human food chain.1327
Growing concerns about MRM in mid-1990

4.237 We noted, at paragraphs 4.128 and 4.129 that on 9 April 1990 Mr Baker met Mr Corbally of the IEHO to discuss concerns about the SBO Regulations, and that this was followed by a letter from Mr Corbally on 18 April. One of the concerns raised at the meeting was the removal of spinal cord, and Mr Corbally's letter noted that ‘MRM could contain significant quantities of spinal cord nervous tissue’.

4.238 As noted in paragraph 4.140, on 2 May 1990 Mr Griffiths minuted the Private Secretary to Mr David Maclean recommending that the Government should not introduce legislation to ban the removal of brain before head meat, but that it should ‘rest on guidance to LAs’, and adding that amendment regulations would ‘fuel debate on BSE generally and, inevitably, lead to demands for similar action on spinal cords’. On this last point he said, ‘We are satisfied that the removal of all visible spinal cord is acceptable in health terms’.

4.239 We have noted at paragraphs 4.142–4.145 the advice given to Mr Gummer on slaughterhouse inspection, the Q&A brief for the Parliamentary debate on BSE on 21 May 1990, and what was said by Mr Gummer during that debate.

4.240 On 21 May 1990 the Parliamentary Secretary, Mr Maclean, held a meeting with representatives of the meat industry and retailers. The meeting was also attended by Mrs Attridge, Mr Meldrum, Mr Stephen Wentworth, Mr John Smith and Mr John Cowan. The minute describing the meeting recorded, among other things, that:

On MRM, they [the meat industry] could not guarantee a 100% removal of all the specified offal, but Mr Meldrum explained that zero risk was an impossibility.

4.241 Also on 21 May 1990, Mr David Maclean and Mr Meldrum met with representatives from consumer groups. Dr John Godfrey (Consumers in the European Community Group) raised questions which included the risk from nervous tissue. A paper tabled by Dr Godfrey at the meeting included the following:

As far as I know the only information we have is on the sciatic nerve, which has only low, though variable, amounts of the causative agent in infected animals . . . a careful study seems urgent. Can one be confident that the nerve cell bodies associated with the dorsal root ganglia are not as hazardous as the spinal cord is taken to be? Meat extracted for food from the vertebra column after the spinal cord has been removed as a precaution might well contain dorsal roots.
4.242 In early June, concern about the MRM process and the potential for contamination of carcasses was growing within the SVS. On 4 June, Mr Meldrum in a letter to Mrs Attridge about a forthcoming meeting of the SVC stated:

We in Tolworth are concerned at this practice because in the extraction of the MRM small fragments of nervous tissue would be sucked out and therefore it is difficult to argue that the resultant material could not be significantly contaminated.\footnote{YB90/6.04/19.2}

4.243 This was the first time that Mrs Attridge was made aware of concerns about the MRM process.\footnote{S78D Attridge para. 26}

4.244 Mr Meldrum told us that his concern was about peripheral nervous tissue. Although he had not been concerned about this when the SBO Order was being prepared, things had changed. Concerns about BSE were being expressed in the UK and overseas in the context of the implementation of the SBO Regulations. The whole issue of BSE had been discussed at the Scientific Veterinary Committee in January 1990 and Dr Richard Kimberlin’s\footnote{Independent TSE consultant and member of the Tyrrell Committee then SEAC since 1990} paper had been worked through. Mr Meldrum had described the process of deciding upon the scope of the SBO Regulations as drawing a line in the sand.\footnote{T123 pp. 50, 57; see also comments made in S184K Meldrum paras 18 and 23} In 1990:

Quite clearly there were concerns being expressed about BSE. It follows that if you are concerned about BSE you are also concerned as to whether or not the line in the sand is the correct line at the correct place.\footnote{T123 p. 80}

4.245 Mr Meldrum added that, because he had been in discussion with Mr Keith Baker and others about the importance of spinal cord removal, he would be assuming at this time that there was a very high level of compliance with the spinal cord removal requirements.\footnote{T123 pp. 79–80}

4.246 On 20 June, Mr David Curry, the Parliamentary Secretary, visited the Canvin International Ltd slaughterhouse to look at the MRM process. A minute reporting the visit recorded that:\footnote{YB90/6.21/17.1}

Small pieces of spinal cord were being left in the sides of beef and Canvin suggested that the cords should be sucked out before the carcasses were split. Canvin said they were working on the idea. There was very little contamination of carcasses during the splitting as a saw with a band saw blade was being used.

Sales of beef MRM have declined and MRM was not being produced any longer as a routine. A small demonstration was put on for Mr Curry. All the bones from the carcass go into the MRM machine, some having been previously broken into smaller pieces. Canvin thought it would be uneconomic to sort the bones prior to going into the machine.
4.247 During this visit to the plant mention was made of the possibility of using a suction pump to remove all spinal tissue from the spinal canal. Mr Curry was ‘impressed by this idea’ and requested a short note on its feasibility. Mr Curry stated that he was ‘very unhappy about MRM’ as ‘traces of spinal tissue were found in the product’. 

4.248 In his minute of 25 June, Mr Alan Bremner, Superintending Meat Hygiene Adviser for the Red Meat Hygiene Section, who had accompanied Mr Curry to the slaughterhouse, said he was very surprised that Mr Curry had seen traces of spinal tissue in MRM:

I was with him and it is so unlikely that I suspect he was misinformed.

What Canvin’s said was that they were not happy to sell MRM because of the risk of contamination of the vertebrae with the spinal cord. Unfortunately not all the spinal cord was being removed by the meat inspectors although only small pieces were left.

4.249 Mr Bremner commented:

My own view was that if the meat inspectors had done their job correctly, there would have been little risk and if the vertebrae were excluded from MRM, there should be no further risk.

Consumers’ Association press release in June 1990

4.250 On 25 June 1990 the Consumers’ Association issued two press releases on BSE which we describe later in this chapter (see paragraphs 4.612–4.616). One of the press releases was entitled ‘Act Now on BSE, Urges Consumers’ Association’ and included recommendations for action by the Government on MRM and on slaughterhouse practices:

ban the use of beef spinal bones for making mechanically Recovered Meat (MRM) – scraps stripped from the bones – and review the safety of the process

give consumers more information about meat products, including species, country of origin and presence of MRM

...  

implement the commitment – by 1991 – that all live cattle in slaughterhouses be inspected for disease in line with EC proposals

ensure that no slaughterhouses employ unhygienic practices that risk the contamination by BSE of any part of carcasses.
The MLC Consumer Committee notes concerns about MRM

4.251 The MLC was aware of concerns about MRM. A paper on BSE prepared in June for a meeting of the MLC’s Consumer Committee noted that concerns had been expressed about MRM:

The splitting of carcasses with circular and band saws (and occasionally with a cleaver) damages the spinal cord and may cause contamination of surrounding tissue. The spinal column is the main yielder in the mechanically recovered meat (MRM) operation. In spite of assurances that the causative organisms of BSE is not present in the spinal column of healthy animals presented for slaughter, there has been concern expressed regarding MRM.

‘Tidying up loose ends’

4.252 On 5 July, Mr Maclean minuted Mr Gummer with regard to ‘tidying up some loose ends’ in relation to BSE. This was copied to Mr Richard Gueterbock, Mr Charles Capstick (Head of Food Safety, MAFF), Mr Meldrum, Mrs Attridge, Mr Lowson and Mr Alan Lawrence. We described some of Mr Maclean’s general points above in paragraph 4.91. In respect of MRM he stated:

I am getting increasing media interest in MRM and I am not happy that we are watertight on two counts. First, we have seen David Curry’s minute of his visit to Canvin International and Dr Denner’s minute suggesting further research to see if any spinal material gets into MRM.

Dr Tyrrell is looking at this but even if he rules it perfectly safe, we will still have a massive lack of consumer confidence in a product which is universally disliked. If he is ambivalent about it, or says that some aspects are unsafe, then it will be impossible to defend the ‘safe’ aspects and we would, in all probability, lose the whole process.

4.253 On slaughterhouses, Mr Maclean commented that when the various authorities with an enforcement role in slaughterhouses were considered, ‘it is easy to see how allegations of malpractice or inadequate supervision can gain credence’. Mr Maclean’s summary for future action included the following:

We need a major announcement on the inspection and supervision of slaughterhouses before the Summer Recess.

We should announce that MAFF ‘will devote more resources to slaughterhouse supervision. IMMEDIATE ACTION’

4.254 We saw at paragraph 4.92 above that Mr Gummer sought urgent advice from Mr Andrews on the implications of Mr Maclean’s proposals, and that

1350 YB90/7.05/4.2
1351 MAFF Special Adviser
1352 MAFF Animal Health Division (BSE and Related Issues)
1353 YB90/7.05/4.3
1354 YB90/7.05/4.4
1355 YB90/7.05/4.7
1356 YB90/7.05/4.1
Mr Andrews responded on 10 July. In relation to the recommended major announcement on inspection and supervision of slaughterhouses, Mr Andrews noted that Mr Gummer had asked for SEAC to advise. He suggested waiting for the report of the Agriculture Select Committee, which could refer to the point, before reaching any conclusion. He noted that while MAFF was responsible for EU-approved slaughterhouses, inspection and supervision of domestic slaughterhouses was for local authorities. Therefore, legally MAFF could only advise local authorities, but regardless, they did not have the veterinary resources for such a role.

Agriculture Committee Inquiry into BSE: considerations about MRM

4.255 As described earlier in this chapter, the House of Commons Agriculture Committee (‘the Committee’) undertook an inquiry into BSE during May and June 1990 and published their report on 10 July 1990. In the following paragraphs we describe the concerns expressed about MRM in evidence and submissions to the Committee.

4.256 In relation to MRM, the IEHO had written to MAFF on 18 April 1990 (see paragraph 4.129) questioning the safety of MRM. In its submission to the Committee it commented on the fact that it had not yet received a response from MAFF.

4.257 The British Veterinary Association asked MAFF to ‘tackle’ the standards in slaughterhouses and give greater reassurance that the removal of the spinal cord did not present a problem in transferring some spinal material to meat. Furthermore, they asked that the MRM process be reviewed.

4.258 The Consumers in the European Community Group, the Director of the Parents for Safe Food and the Food Safety Advisory Centre wrote to the Committee requesting that MRM be banned. The Food Safety Advisory Centre requested that MRM be banned from both human and animal consumption. The Director of the Parents for Safe Food requested that MRM production be suspended, at least until:

- categoric guarantees can be given that spinal cord and other Central Nervous System tissue is not getting into butchery by-products which make up MRM raw material.

4.259 The Consumers’ Association asked for a prohibition on the use of beef spinal bones for making MRM and an urgent investigation into the MRM process to assess safety implications.

4.260 Dr Gerald Forbes, the Director of the Environmental Health (Scotland) Unit (1989–93), questioned the safety of MRM. He wrote to the Committee and stated:
With regard to mechanically recovered meat, the question remains, can any guarantee be given that parts of the central nervous system of cattle do not enter this product? I would suggest that this is not possible and whether or not the practice of producing mechanically recovered meat can be considered safe is very much open to doubt.  1366

4.261 The National Consumer Council requested that further measures be taken to reduce the risk of potentially infective tissue entering the food chain, including new controls on the use of MRM.  1367 Both the British Medical Association and the British Federation of University Women were concerned that measures be taken to ensure that none of the head or spinal tissue remained in the meat for human consumption.  1368

**Report of the Agriculture Committee in respect of MRM**

4.262 The Agriculture Committee delivered its report on BSE on 10 July 1990. The Committee recognised that the inadvertent inclusion of SBO in MRM might have passed, or theoretically could still pass, the BSE agent on to humans.  1369 The Committee described this possibility as a ‘slight loophole’ due to slaughterhouses failing to carry out the Regulations ‘to the letter’. The Committee received no evidence of an irresponsible approach to the Regulations but noted that this did not necessarily mean that they were ‘watertight’.  1370 Ultimately, however, the Committee did not make any conclusions or recommendations on MRM.  1371 In this respect the Committee stated:

> All our witnesses were in agreement that the infectivity of the BSE agent is related to the quantity of the agent involved. Thus the brains of a subclinically affected animal would be less infectious that that of one in the final throes of the disease; a six-month old calf less infectious than one in whom the disease had been incubating for two years; a nerve at the periphery of the nervous system less infectious than the brain itself. Although, therefore, the authorities are right to address the possibility that infectious tissue from a sub-clinically affected animal might inadvertently be included with, or otherwise contaminate, meat sold for human consumption, such a possibility need not cause undue concern because of the small quantities of the agent likely to be involved. This element in scientific arguments has a critical bearing on the food safety issue, but has been consistently ignored or understated by those wishing to present the risks to humans in their most dramatic light.  1372
Government response to the report of the Agriculture Committee

4.263 The Government produced a formal response to the report of the Agriculture Committee on BSE in November 1990. In preparing the response Mr Lowson acknowledged that the report raised "a series of difficult issues".1373 Dr Hilary Pickles, PMO, stated that the recommendations contained in the report ‘should be accepted, unless there are very good reasons to the contrary’.1374

4.264 The response commented on how the Government had asked SEAC to advise on other slaughterhouse practices:

They have now done so, taking account in particular of their first hand observation of the slaughtering process. They have concluded that, providing that the rules relating to slaughtering practices are followed and properly supervised, there is no need on consumer protection grounds to propose further measures.1375

SEAC

4.265 At this point we give an account of MAFF’s preparation of the paper on slaughterhouse practices submitted to SEAC for consideration at its sixth meeting on 1 November 1990. It traces the genesis of this paper, in particular how MAFF’s original intention in June 1990 had been to prepare a technical paper on MRM for SEAC, in response to concerns about the safety of UK sausages. However, the MRM paper was later incorporated into a more comprehensive paper on slaughterhouse practices which was submitted to SEAC for its sixth meeting. The final paper focused on the issues of carcass-splitting, MRM and pithing rods.

Why involve SEAC?

4.266 In a Commons debate on BSE on 21 May 1990, Mr Matthew Taylor MP expressed concerns that slaughterhouses were not complying with the ban on specified offals. In response Mr Gummer had advised that SEAC was to consider the matter:

I hope that he recognises that the matter has gone to the Tyrrell Committee because our expert advice is that what we are doing is in general perfectly acceptable. However, I do not want there to be a scintilla of doubt.1376

4.267 On 22 May 1990, Mr Gummer discussed with Mr Andrews the task of referring questions on slaughterhouse practices to SEAC. It was recognised that SEAC did not have any expertise in relation to slaughterhouse practices so it would be appropriate to suggest that Mr Johnston, a senior lecturer at the College of Veterinary Surgeons, be involved.1377
4.268 An article in the *Sunday Times* on 10 June titled ‘Vets question the safety of UK sausages’\(^{1378}\) led Mrs Attridge to minute Mr Harrison, the Private Secretary to the Minister, on the subject. She suggested it would be worthwhile to seek more information about MRM.\(^{1379}\)

4.269 On 12 June Mr Meldrum minuted Mrs Attridge regarding MRM. He stated that he had:

> some difficulties with the concept of obtaining MRM from bovine carcasses and particularly from the vertebral column because of the risk of sucking out residual nervous tissue and causing contamination. Although we have accepted, so far, that the risk is minimal we do need to be somewhat guarded in any statement we make since this is an issue that will be considered by Tyrrell and may lead to a restriction on the derivation of MRM from some parts of the bovine carcass.\(^{1380}\)

4.270 On 13 June, at SEAC’s third meeting, the following conclusions were recorded in the minutes after a discussion on head-splitting:

> Similar issues arose with spinal cord; if it made sense to avoid contamination by brain tissue of meat for human consumption it appeared on the face of it to make equal sense to avoid contamination of such meat with the spinal cord, which was just as likely to carry infection. Further information is needed on this.\(^{1381}\)

4.271 At the meeting which took place on the same day between Ministers and senior MAFF officials it was recognised that SEAC would not be expert in the procedures involved in the MRM process, so it would be necessary for MAFF to prepare a paper on the technical issues involved.\(^{1382}\) Mr Meldrum and Mrs Attridge were asked urgently to take forward the preparation of a detailed assessment of the possible hazards of MRM.\(^{1383}\)

4.272 On 14 June, Mrs Attridge sent a minute to Mr Meldrum regarding MRM. She suggested that a paper be prepared that could be put to SEAC:

> The paper will need to take into account:–

- a) What the process is, and in particular how it deals with the parts of the vertebral column from which the specified offals will have been removed;

- b) The quantity of the material being produced (including its value) and what it is being used for – my recollection that this is mainly meat pies rather than sausages, or least so far as beef is concerned;

- c) Some risk assessment of the material in relation to other materials such as eg sheep and sheep products, lymph nodes and similar nervous tissue in meat which will not be affected by any restrictions, bearing in mind that this

\(^{1378}\) YB90/6.10/1.1  
\(^{1379}\) YB90/6.11/1.1  
\(^{1380}\) YB90/6.12/11.1  
\(^{1381}\) YB90/6.13/1.3  
\(^{1382}\) YB90/6.14/2.1–2.2  
\(^{1383}\) YB90/6.14/2.1–2.2
material will be coming from clinically healthy animals and that increasingly
the animals slaughtered will not have been eating meat and bone meal.

The paper for the Tyrrell Committee may also need to consider what powers
we could utilise if they suggested that any action be taken . . . Should the
Minister decide that any action was appropriate, he would need to act on a
rational basis otherwise he would be subject to judicial review. It is
particularly important that decisions should not be taken for presentational
or other reasons, but be clearly based on science and on appropriate risk
assessment.\textsuperscript{1384}

4.273 Mr Bremner responded to this minute from Mrs Attridge stating that the
CVO had already asked the SVS and the Meat Hygiene Division to prepare a draft
paper which would be circulated to all interested parties and take into account the
points she had raised.\textsuperscript{1385}

4.274 On 18 June 1990, Dr William Denner, Head of Food Science Division,
minuted Mrs Attridge responding to her concerns raised in her 11 June minute on
MRM. He stated:

7. The majority of beef MRM manufacturers adhere to the British Meat
Manufacturers Association draft code of practice regarding which bones can
be used for MRM production. This code requires the removal of the spinal
cord and specifically excludes the use of the longer bones, ie bones with
higher marrow content, and also head bones.\textsuperscript{1386}

4.275 Furthermore he believed that:

9. If the risk of BSE from muscle meat is regarded as negligible, then the use
of MRM would not seem to add to that risk provided the MRM was prepared
in accordance with para 7 above.\textsuperscript{1387}

4.276 Mrs Attridge forwarded this minute to Mr Lowson on 19 June and suggested
that this information could be incorporated into any paper put forward to SEAC.\textsuperscript{1388}

The paper for SEAC on slaughterhouse practices

4.277 SEAC’s paper had its origins in a draft paper on MRM prepared by
Mr F Taylor of Meat Hygiene Division with assistance from Mr Bremner, the
Superintending Meat Hygiene Adviser. This, as Mr Taylor explained in a covering
minute, had needed ‘widespread consultation on technical aspects’.\textsuperscript{1389} This was
subsequently rewritten by Food Standards Division in conjunction with Food
Science Division.\textsuperscript{1390}

4.278 The revised paper followed the structure of the original paper by Mr F Taylor
that included sections on MRM processing, food labelling regulations, the BMMA
Code of Practice, MRM research work and EU involvement.
4.279 The draft gave a description of contamination to the vertebrae that was likely to result from damage to the spinal cord and when the vertebral column was split. It referred to the risk of transference of nervous tissue from the vertebral column to MRM.

4.280 The draft paper concluded as follows:

In the absence of a wholly satisfactory method of removing nervous tissue from the vertebral column, the following courses of action might be considered to minimise the risk of meat and bones, contaminated with nervous tissue, being used in the manufacture of MRM:

(a) issue guidance to the trade on how to minimise contamination of bovine carcasses from CNS tissue when splitting the carcass;

(b) request local authorities to ensure that, on inspection of the carcasses, spinal cord material has been removed; . . .

(c) prevention of the use of any meat or bones from the vicinity of the spinal column, by excluding the use of the vertebrae, in the production of MRM;

(d) avoidance of all perceived risk by prohibiting manufacture of MRM from bovine carcasses.

Where necessary, legislation could be introduced to implement options (c) and (d) above.

Recommendation

Further work has to be carried out before the risk can be fully evaluated.

There is the likelihood that options (a) and (b) would be seen as recognition that there was a need for further action without taking any enforceable steps to ensure its fulfilment.

Option (d) would result in widespread opposition from a substantial number of MRM producers and users, with the accusation of wastage of perfectly good meat, a reduction in consumer choice, and increased costs.

On the other hand option (c) would solve any perceived problem while allowing trade in acceptable meat to continue.1391

4.281 Mr Meldrum wrote to Mr F Taylor instructing him to make further drafting changes:

There needs to be some risk assessment introduced into the paper particularly to explain that MRM is being obtained from totally healthy cattle in which the agent would either be totally absent from the brain or spinal cord or present in very low quantities indeed. We can use the paper prepared by Dr Pickles for the Tyrrell Committee to give us an indication of the arguments we should deploy. I am enclosing a copy of that paper and
maybe Mr David Taylor can help you to deploy the most appropriate arguments . . .

Paragraph 11 should be titled ‘Summary’ and should not, at this stage include any recommendations. It would not be true to say that options (a) and (b) are negative as they are stated and are very positive in the respect that we would be giving clear advice to the industry and local authorities as to how to reduce any possible contamination of MRM. Although presentationally option (c) is attractive, it still has significant difficulties since we have allowed MRM to continue to be obtained for so long and we could be criticised that we are seeking a lower risk assessment than the facts warrant. We must not ignore the reality of the situation and that MRM is being obtained from healthy animals in which the agent is unlikely to be present at all and, if present, at very low concentrations indeed. On balance therefore I would link (a) and (b) in a rather more positive fashion for consideration by the Tyrrell Committee. 1392

4.282 On 29 August, Mr F Taylor sent a further draft to Mr Lawrence, under cover of a minute which expressed the hope that the draft was close to submission and referred to a request from Mr Lowson, who had gone on leave, that Mr Lawrence should submit it when finalised. 1393

4.283 This draft repeated the possible courses of action set out in the previous draft. In place of ‘Recommendations’, the draft ended with the following ‘conclusions’:

As a possibility may exist of contamination of MRM from the spinal cord or other parts of the carcass, further work should be carried out to evaluate this risk.

If a risk is established there is the likelihood that the options in paragraphs 10(a) and (b) above would be seen as recognition that there is a need for further action without any enforceable steps being taken to ensure a remedy.

The adoption of the option in paragraph 10(d) would almost certainly result in widespread opposition from a substantial number of MRM producers and users, critical of wastage of perfectly good meat and increased costs.

Implementation of the option in paragraph 10(c) would, on the other hand, solve any perceived problem, whilst allowing trade in acceptable meat to continue. 1394

4.284 Mr Meldrum minuted Mr Lawrence on 3 September with a suggestion for a further amendment to the draft:

We may be placing ourselves in something of a quandary with particular reference to further action. If we go further than to offer advice then the Tyrrell Committee is going further than the action we have proposed within the SVS and presentationally it will appear [as] if our advice is faulty. For that reason I would prefer there to be a comment in the paper as to what

1392 YB90/7.11/5.1
1393 YB90/8.00/7.1
1394 YB90/8.00/7.9
advice we have given so far to the industry on MRM production and, in particular, to Local Authorities on removal of spinal cord tissue.\(^{1395}\)

**4.285** In a minute to Mr Lawrence, Mr Charles Cockbill, Head of the Food Standards Division, also suggested further amendments to the draft. He was concerned that legislation would raise problems under EU law and involve expenditure on enforcement. He concluded by stating:

> Whilst therefore the option of legislation should not necessarily be excluded from the considerations of the Tyrrell Committee I think that the paper leads the Committee to the conclusion that it is an easy option which could be simply followed. I hope I have illustrated in this minute that it is not so easy and that even if it was followed I am far from certain that the problems that you would want to address would be solved by it.

I suggest therefore that the paper is far more tentative in its conclusions as regard possible legislation on the restriction of the bones from which MRM might be derived. Perhaps it ought to develop rather more the rules and guidance and controls on ensuring that spinal cord material is properly removed from the carcass at the slaughtering stage without the risk of contamination of other material.\(^{1396}\)

**4.286** It was not until October that Mr Lowson produced the final draft. This added to the existing paper on MRM a section provided by Mr F Taylor on ‘Carcass Splitting’ and a further section on ‘Pithing Rods’. It also incorporated some additional material at the suggestion of Mr Bradley. It included the following information:

The splitting of the bovine carcass is the last major dressing operation prior to carcass inspection. The carcass is spread so that the hind legs are anchored as far apart as is practicable. The back saw cuts down from the sacro-coccygeal area through the mid-line of the spinal column until the two halves are separated. In most cases a reciprocating saw is used. This has relatively slow action procedures and produces visible amounts of bone waste . . .

The spinal cord will inevitably receive some damage during this operation, although it is often surprisingly intact. It generally will be removed by use of a blunt hook, or similar implement, drawn down the length of the spinal canal . . .

The concern that has been expressed regarding carcass splitting relates to the possible transfer of material from the damaged spinal cord onto the carcass. The volume of material is likely to be small, in most cases no more than a few grams. It will be concentrated around the cut surface of the spinal column, perhaps with some slight spill over onto exposed meat surfaces. The routine washing of the carcasses will, if done sufficiently promptly (as would be normal practice), remove the greater part of any gross particular matter. However no data are available about the quantity of spinal cord tissue likely to come into contact or remain with material used for human consumption. Such data could be obtained by comparing the mean weight of spinal cord

\(^{1395}\) YB90/9.03/5.1

\(^{1396}\) YB90/9.06/3.2
collected after splitting with that obtained after necropsy using a standard procedure to account for the length of spinal nerves etc. 1397

4.287 In relation to MRM, the paper stated:

Inevitably when bovine carcasses are split through the centre of the vertebral column in the slaughterhouse some nervous tissue can remain and some contamination of the vertebrae with central nervous system (CNS) tissue can occur. This will be as a result of:

(a) small pieces of spinal cord inadvertently remaining in the vertebral column;

(b) contamination from carcass splitting; or

(c) the failure to remove nerves from between the vertebrae.

It is unlikely that lymph nodes and other nervous tissue associated with the muscle are left adhering to the bones, since only residual meat remains after the deboning stage. However, there will probably be some peripheral nervous tissue still present within the vertebral column. Therefore, any risk passed by MRM would seem to be by the transference of the BSE agent from nervous tissue to the MRM. It is still not known however, if even where the spinal cord is removed cleanly, any risk exists from the remaining nervous tissue in the vertebral column. 1398

4.288 The paper no longer contained a section on ‘Possible Courses of Action’, and it only listed areas in which research could be useful; including

– the quantification of the extent of any residue of CNS tissue left with the carcass when the cutting process is complete . . .

– assessment of possible alternative methods of removing the spinal cord or cutting the carcass

– methods of detection of CNS tissue in MRM, and then determination of the presence of CNS tissue in MRM.

4.289 The paper closed with a one-paragraph conclusion inviting the Committee to:

Consider on the basis of the available evidence whether any action or guidance is required in relation to slaughterhouse practices, and whether any new R&D is needed. 1399

4.290 Before their sixth meeting, at which they discussed the paper on slaughterhouse practices, Dr Tyrrell and most of the members of his Committee between them visited two slaughterhouses. Dr Kimberlin later gave this description of the visits to the Lamming Committee:
Committee members had visited commercial abattoirs to witness the removal of spinal cord from carcasses, and had been very impressed by the way it had been performed. The spinal cord had been surprisingly tough and easy to remove . . . the demonstration had probably [taken] place in the better slaughterhouses and the purpose of the visits was to assess the feasibility of spinal cord removal, not how well it was being done in slaughterhouses.1400

**SEAC’s conclusions**

4.291 SEAC considered the paper at its sixth meeting on 1 November 1990. The minutes do not record any specific discussion of MRM. In relation to slaughterhouse practices they record:

Those members who had been involved in the slaughterhouse visit had noted that, if proper procedures were followed, specified offals could be satisfactorily removed at the slaughterhouse, and in particular that the spinal cord could be extracted from the carcass without difficulty. The Committee therefore concluded that, provided all the rules were properly followed and supervised, there was no need to recommend further measures on the grounds of consumer protection (operator safety was a matter for HSE).1401

4.292 In a statement to the Inquiry, Dr Tyrrell on behalf of SEAC stated that:

The advice given by SEAC was expressed to be subject to a proviso or condition. That condition or proviso is set out above and is in the use of the words ‘if’ and ‘provided’. It is necessary to read the conclusion in full to understand it. It was for Ministers and their officials to consider SEAC’s advice and decide if the provisos or conditions explicitly mentioned could be met . . . SEAC members regarded giving advice, in the qualified terms in which it was expressed, to be within their role and expertise. The conclusion was, essentially, negative.1402

4.293 On 8 November 1990, Mr Lowson circulated the draft minutes of SEAC’s sixth meeting to Mr Meldrum, Mrs Attridge, Mr Bradley, Mr Kevin Taylor, Dr Richard Cawthorne,1403 Dr Kenneth MacOwan,1404 Mr John Wilesmith,1405 Mrs Brown, Mr Lawrence and Mr Maslin. He did so under cover of a minute setting out ‘what seems to me to be the action now required’. Action was required in relation to a number of topics. So far as slaughterhouse practices were concerned, Mr Lowson stated:

No further action, except that I will seek Ministers’ views on whether they want to publicise the Committee’s conclusion.1406

4.294 Mr Lowson summarised the Committee’s position in a minute to Mr Maclean, and copied to, among others, Mr Gummer, Mr Andrews, Mr Capstick, Mr Meldrum, Mrs Attridge and Mrs Jane Brown. This stated that SEAC had been:
specifically considering the issues raised by carcass splitting, mechanically recovered meat and pithing rods. This included visiting two slaughterhouses and seeing the slaughtering process at first hand. In the light of these visits, and of papers prepared in Tolworth, the Committee concluded that so long as the rules were properly observed and proper supervision was maintained, there was no need to recommend further control measures on grounds of food safety.

The Committee does not intend to produce a formal document setting out this advice but are aware that Ministers may choose to make some kind of public announcement. 1407

4.295 Mr Lowson’s minute also noted that SEAC did not intend to produce a formal document setting out this advice. Mr Lowson suggested that the advice be announced by an appropriate insertion in the Government Response to the Report of the Agriculture Select Committee. A handwritten note at the foot of the minute records that Mr Maclean was content with this approach. 1408

Discussion

Introduction

4.296 We have observed that the problem of contamination of MRM by residues of spinal cord did not receive the attention that it deserved when the SBO Regulations were being prepared. MAFF Ministers and officials did not, however, lose sight of the problem. As Mr Lowson observed:

There was concern about this issue within MAFF through 1990 and a brisk debate during 1990. 1409

4.297 We propose to analyse the consideration that was given to MRM in 1990 in some detail. This is because we believe that the extraction of MRM from bovine vertebrae was the most likely route by which SBO may have entered the human food chain. In a letter to Dr Pickles dated 17 June Mr Bradley observed:

The public perception is that the offals ban is an important protective mechanism against exposure. If that is not the case we need do no more – but if it is, improving it will be necessary as there are chinks in the armour. 1410

4.298 We believe that MRM was a major chink in the armour. The consideration that was given to MRM in 1990 did not lead to the blocking of that chink. We have sought to identify why that was.

4.299 It is perhaps helpful, at the outset, to set out in a nutshell what occurred. MAFF officials correctly identified that the slaughterhouse operation of splitting the carcass down the spinal column was an operation which would inevitably, on occasion, damage the spinal cord and result in contamination of the carcass, and in particular the spinal column, with residues of spinal cord. This was of particular

1407 YB90/11.09/5.1
1408 YB90/11.09/3.1
1409 T127 p. 78
1410 YB90/6.17/1.4
significance in that the spinal column was the major source of bovine MRM. SEAC was provided with a lengthy paper which advised it of this and of many other matters, and asked to advise generally on whether any action needed to be taken. After slaughterhouse visits SEAC concluded that, if proper procedures were followed, the spinal cord could be removed without difficulty. SEAC then advised that, provided that ‘the rules were properly followed and supervised’, no further measures for consumer protection were necessary. SEAC’s advice was treated as giving a clean bill of health to current practices and procedures. SEAC’s proviso was assumed to be satisfied. No steps were taken to address the problem of contamination of MRM until 1995, when an audit of slaughterhouse practices disclosed that the spinal cord was not always removed cleanly and totally in the slaughterhouse.

4.300 We start by considering the extent to which there were in fact failures to remove spinal cord in 1990. For this purpose we need to review evidence covering 1991–95 as well. We then turn to consider the course of events in 1990 in more detail. A detailed description of events covering MRM from 1991 onwards is given in chapters 5 and 6.

**Standards of removal of spinal cord**

4.301 Members of the Veterinary Field Service (VFS) made regular visits to slaughterhouses to monitor compliance with statutory regulations which included the human SBO ban. Returns of the results of the inspections were made to the Meat Hygiene Division at Tolworth. Many of these returns have not been preserved. We shall see shortly that in 1990 there is one record of a MAFF veterinarian noting incomplete removal of spinal cord in two sides of beef. We are not aware of any other instance where there was a report of failure to remove the whole of the spinal cord until 1995, when a significant number of such failures was reported.

4.302 Either standards of removal of spinal cord deteriorated in 1995 or the monitoring of the SBO ban which was carried out by the SVS between 1989 and 1995 failed to disclose the shortcomings that were occurring. We are in no doubt that the latter is the true position. We propose at this stage to review the evidence which satisfied us that there was, throughout this period, a continuing failure on the part of those employed in slaughterhouses to ensure that the entirety of the spinal cord was removed from carcasses before the health stamp was applied.

**The operation of removing the spinal cord**

4.303 We had evidence about this from many sources and it was not entirely consistent. The efficacy with which the spinal cord can be removed depends upon the skill of the operative and the type of saw used. The following selection of the evidence makes it plain that there were many occasions on which the spinal cord was not cleanly removed.

4.304 The immediate response of EHOs to the new Regulations was summarised in a lengthy letter from the IEHO to the MAFF’s Animal Health Division. This recorded:
In practice the spinal cord is often shredded and fragmented by the mechanical carcass splitting saw, not only contaminating the meat but also prohibiting effective removal as per the Regulations.\textsuperscript{1411}

4.305 Mr Trevor Higton had experience as a licensed slaughterman, a local authority meat inspector and a meat hygiene inspector with the Meat Hygiene Service.\textsuperscript{1412} He gave us this description of the operation:

The normal process is to saw straight down the centre of the spinal canal, which effectively cuts the spinal cord itself in half. The saws that are used in normal operation are, because of their nature . . . water cooled, the blades are water cooled so there is spray without doubt, there is contamination of surfaces. It is, from what I understand it is unavoidable.\textsuperscript{1413}

4.306 Mr Ron Spellman had worked as a local authority meat inspector for a total of 28 years before becoming a meat hygiene inspector with the Meat Hygiene Service. He gave us this description:

. . . as the person operating the saw comes down the spine, they are extremely unlikely to stay on one route. Just deviating by a few centimeters to the left to right, they will tend to cut through. You may well see in an abattoir . . . a cord which is whole meninges complete for several feet and then a couple more feet may be on the other side where the saw has gone through. You may have sections of spinal cord, but they will be whole on this side, then whole on the other side.\textsuperscript{1414}

4.307 Mr Spellman gave this description of how techniques had changed under the Meat Hygiene Service, which was established in 1995:

The situation we had then was the spine was split down the middle and an operative would make an attempt to remove the spinal cord. We now know that . . . if the whole meninges and all the soft fat behind the meninges are not removed, so effectively you are looking at just bone, a canal of bone, it is almost impossible to be sure that all spinal cord has been removed.

We went through a series of processes really from November probably until the spring of 1996 where gradually the MHS toughened the controls on the slaughterers to achieve this. We did not go immediately to that stage. Under the old system if the spinal cord is just pulled out and the meninges and the soft fat left behind, an inspector running his knife down the canal will often see slivers of cord pop out. It was extremely difficult to be sure that 100 per cent compliance was achieved at that stage. As I say it is now necessary to have virtually a completely clear canal of bone to be sure that you are in the 100 per cent category.\textsuperscript{1415}

4.308 Mr Spellman also spoke of ‘problems with areas of spine left bridged over where the spine was not properly sawn down the middle’.\textsuperscript{1416}
4.309 Mr William Swann, leading one of a number of Hygiene Assessment Teams for the Meat Hygiene Service in 1995, visited over 90 slaughterhouses. He told us that he saw very little evidence of serious damage to the spinal cord.\textsuperscript{1417} He said, however, that in the smaller abattoirs where equipment was less maintained or less modern, and perhaps because operatives were less skilled, the saw deviated off the mid-line when the carcass was being split so that there would be a section where the spinal cord would not be visible and removal was not complete.\textsuperscript{1418}

4.310 Mr Swann had kept his contemporary notes and told us that a large number of them referred to spinal cord still being present in carcasses after meat inspection. He commented that this was a direct route of potential entry of spinal cord into MRM.\textsuperscript{1419}

4.311 Ms Marja-Liisa Hovi, who worked in an abattoir as a designated OVS, confirmed evidence given by Mr Swann that maceration of the spinal cord was not very likely. She added that she agreed with him that bits of spinal cord were often left on the carcass after the health mark was stamped on it:

It often was the bits of spinal cord were left on the carcass in cases where the saw had actually cut the spinal cord in small pieces, or the saw perhaps had not gone straight through the middle and pushed the spinal cord on its way, where it had perhaps gone in at a bit of angle and cut it off so the spinal cord did not come off when the operator removed it with the hook, and they usually just removed the bit that came out and left the bits that were cut off by the saw. In my opinion that was usually the case, of leaving bits of spinal cord in the spinal cavity.\textsuperscript{1420}

4.312 Mr Andrew Fleetwood (SVO, SVS, 1991–96),\textsuperscript{1421} concerned with monitoring the enforcement of the SBO Regulations in 1995, said this about the operation of removing the spinal cord:

Bovine carcass at this time were split lengthways by a power saw down the vertebral column. It requires an extremely skilled operator to split the carcass absolutely in half down its entire length. In most cases the saw will deviate by only a few millimeters to one side or another. The consequence of that is that spinal cord can become slightly concealed in that portion of the spinal column where the saw has not been absolutely transversely through the middle.\textsuperscript{1422}

4.313 He added:

In a busy production slaughterhouse, spinal cord removal will not be complete at the time of splitting the carcass in a small number of cases. That is understood and acceptable but obviously all fragments must be removed before the animal receives a health mark.\textsuperscript{1423}

\textsuperscript{1417} T62 p. 9
\textsuperscript{1418} T62 pp. 10–1
\textsuperscript{1419} T62 p. 23
\textsuperscript{1420} T62 pp. 97–8
\textsuperscript{1421} Before this, Mr Fleetwood had been a Veterinary Investigation Officer (VIO) with SVS, 1987–1991
\textsuperscript{1422} T55 pp. 139–40
\textsuperscript{1423} T55 p. 140
4.314 Mr Johnston McNeill (Chief Executive, Meat Hygiene Service since April 1995) gave us further evidence in relation to the problem posed by the meninges:

. . . we were concerned that the procedure of leaving the meninges, which is the fatty tissue surrounding the spinal cord – that the procedure that was recommended, or was normal practice, required that that should be left; which was a difficulty for our staff because when the carcass was split it was quite possible that thin slivers and small slivers of spinal cord could be tucked in between the spinal column itself and the meninges.

That made things rather difficult for our staff in that later, when that carcass went into the chill and that contracted, these little slivers could become visible then, whereas they may not have been visible at the time of inspection of the carcass when, of course, it is warm. And that was an area that I know Peter [Soul, MHS Director of Operations] had discussions with the vets at Tolworth, about the possibility . . . that the meninges should be removed in its entirety, so as to ensure that these incidents did not arise.\footnote{T37 pp. 73–4}

4.315 This evidence demonstrates that clean removal of the spinal cord depended critically on the way the operation of sawing the carcass in half was effected. There were inevitably going to be occasions upon which the spinal cord was not cleanly removed.

4.316 We note here that Mr Colin Maclean of the MLC told us that:

Periodically, the Government, MAFF, had a Fatstock Inspectorate which was a small cadre of skilled people in this area who would go and inspect our [MLC] inspectors, so they would audit what they were doing and they would produce infringement reports so that if they went in and said ‘We found too much kidney in the channel fat’, they would write a letter and say: ‘Naughty boys, discipline your troops’, which is then what happened. I think, Chairman, as you have seen from our input to you, we, in 1990, out of the thousand reports, found one infringement thing associated with spinal cord which reassured us because it said the mechanism was working and clearly therefore we believe on balance that the majority of the spinal cords at that period of time would be out of the animals in the factories we were in.\footnote{T108 p. 75}

4.317 Although the Fatstock inspections suggested that spinal cord was being removed, Mr Maclean indicated that one had to be aware of the realities:

. . . when you are talking about somebody saying, ‘You will do a biological control to 100 per cent’, those of us who are informed know it does not mean that. It does not mean there is no afferent nerve sitting there with a bit of spinal cord stuck on it, of course it is. And therefore you had to be satisfied that the assurances you were giving took that into account.\footnote{T108 p. 76}

4.318 Finally, we would refer to the evidence given by the representatives of three of the major retailers. They told us of the results of inspections that they carried out for quality assurance purposes at the abattoirs that supplied them. On occasion they found that the stripping out of the vertebral column was not being done as efficiently
as it should have been and they raised this matter with the relevant management in the abattoirs. 1427 This evidence was of particular significance as the suppliers to these supermarkets would have been selected from the upper end of the slaughterhouse industry.

4.319 We turn next to consider whether, in the period from 1989 up to 1995, there was a failure on the part of the meat inspectors employed by the district councils to ensure that, where spinal cord had not been removed by the slaughterhouse operatives, the offending portions of spinal cord were removed before the carcass was health stamped.

**Meat inspections**

4.320 Mr Swann told us of occasions on which meat inspectors were found to have stamped carcasses which contained spinal cord after the Meat Hygiene Service took over the task of inspection from local authorities. We do not believe that this was a new phenomenon. The meat inspectors were the same people; they had simply switched employment from local authorities to the Meat Hygiene Service.

4.321 We mentioned in paragraph 4.85 the report by Mr Webster of 20 November 1990. Among other things, he found evidence that meat inspectors at one slaughterhouse had not noticed two bovine carcasses containing remnants of spinal cord. 1428

4.322 Mr Christopher Clark (Meat Hygiene Inspector and Hygiene Advice Team Officer, Meat Hygiene Service, April 1995 to March 1996) 1429 told us that when the SBO ban was introduced staffing levels were not good enough to check on things like the ban. 1430

4.323 Mr Spellman drew attention to the contrast between the situation when the Meat Hygiene Service took over and the position a year later after controls had been improved.

The situation was very difficult in the autumn of 1995. Inspectors attempting to achieve 100% compliance with spinal cord removed were under tremendous pressure. They had insufficient room normally and insufficient staff.

If we look at what has happened in the interim, it now becomes apparent just how difficult the task is to achieve 100% compliance . . .

. . . There are more staff on the line, both plant staff to achieve the necessary presentation of the carcass and there are more inspection staff on the line to make sure that the regulations are complied with. 1431

4.324 Mr McNeill told us that at the time the Meat Hygiene Service took over there had been a concern from the industry that meat inspection levels varied substantially throughout the country. 1432 Initially there was a notional allocation of the time the
meat inspectors devoted to SBO work of 15 seconds per animal. This proved inadequate and an additional 300 meat inspectors had to be employed by the Service.

4.325 Mr Peter Soul told us that when the Meat Hygiene Service took over they found a lack of compliance with the SBO Order on the one hand and a lack of enthusiasm for enforcing the Order on the other. He explained:

... when you split a carcass, if you get it right down the mid-line it is easy to remove the spinal cord but if you go slightly off centre, a piece of the spinal cord is trapped in the canal and is difficult to remove, and it is then quite a business to have to take the carcass back and either split open the canal with an axe or take it back to the saw, and this slows down the line and slows down production and so on. So if you are enforcing your order rigorously you have to make sure that that is done, whereas I think the feedback that was coming through at that time was that, you know, if that happens then nobody would have been particularly bothered about it. That side of beef would have gone through with that little piece of spinal cord still left in the vertebral column.

4.326 We had evidence from EHOs of the pressure that meat inspectors could find themselves subjected to in an abattoir. Dr Joseph Gracey (President, Humane Slaughter Association and Council of Justice to Animals and author of Meat Hygiene, a comprehensive guide for meat inspectors) told us that the environment in an abattoir could be very stressful for the meat inspector. Some had to put up with not only verbal abuse but also physical abuse. Not all the meat plant owners were agreeable individuals. The speed of operations, the speed of the slaughter itself, put pressure on inspectors without the ability to do the task properly.

4.327 Finally, we would quote at length from a summary given to us by Mr Lawrence of what he learned as head of a project team set up in October 1992 to establish the Meat Hygiene Service:

What it revealed was that there were well over 1,000 meat inspectors out there working for, as commented, over 300 local authorities. Some were full-time, some were part-time.

There were EHOs, some employed OVSs, official veterinary surgeons, but many on contract and there were also a number of contract meat inspectors. So with that we had a global picture. The next stage for us was to actually go out there and talk to these people to see how they managed the operation.

During the course of I suppose over a year, we visited over 35 individual local authorities to discuss the way they managed the operation. Those discussions were with chief environmental health officers, EHOs, meat inspectors at the plants, OVSs. So we covered the range, we covered the ground, and we talked to very many people.
We also met organisations such as the Association of Meat Inspectors and the Veterinary Public Health Association where we were able to talk to them in groups, again to get their views and opinions about the operation under the local authority system and what they felt about the establishment of the Meat Hygiene Service.

The results of that were very interesting and they were very mixed. There were some excellent, I think, local authorities, well-managed; others, it was not the case. I wanted to just point out some of the problems that we found as a project team in talking to individuals. In many cases, there seemed to be an unclear management chain. Meat inspectors did not seem to know who to report to. If they wanted advice on personnel matters, who were they to go to? Ostensibly it was the EHO, but he was often quite a long way away working in the council offices. Most of the OVSs were on contract and again there were problems about the working together, if you like, between the OVS and the meat inspector. In other words, in many plants there did not seem to be any team work. The meat inspectors did not respect the OVS and vice versa.

In some cases, there was animosity between plant management and inspectors. In a few cases there was actual intimidation. I think that has been borne out by some of the press reports I have seen in the Meat Trades Journal very recently, but that was a problem.

In one or two instances we felt that the plants actually had influence over the local authorities. If a plant was in financial difficulty and that plant had a large number of employees working locally, then the closure of the plant could have meant loss of jobs. I think that may have impacted on the attitude of the local authority to the work that they were undertaking in those plants. Meat inspectors wanted more training and they wanted wider experience in other plants. In many cases, it was not possible.

A lot of authorities only had one plant. They were only responsible for one meat plant and there may only have been two or three meat inspectors. There were really no prospects for these people, so there was a lack of motivation.

In those circumstances too there was a danger of familiarity if they spent too long in one plant in a small authority, and also the potential to get stale. Another thing that we found was that there were in some cases a lack of coordination between local authorities. We actually came across this at a plant visit when there was an allegation of unfit meat and, of the two plants involved, one plant was in another authority and these two authorities did not get on very well. So there was a difficulty there about coordinating the activities.

There did not seem to be any consistency on guidelines for enforcement. Some seemed to be very good, very tidy and well understood by all the people on the ground; in other cases, that did not seem to be the case at all. I think there was a general feeling of isolation. Again, those characters who worked in one single plant and had no opportunities to do anything else, they always felt isolated.\[1437]
4.328 We have considered whether the discrepancy between the failures to remove spinal cord that were identified after the Meat Hygiene Service became responsible for inspection and the lack of reports of such failings before 1995 is attributable to a fall in the standard of performance by the inspectors when the Service took over. This does not accord with the evidence which we have just rehearsed. We believe that with the levels of staffing that existed, and the variations in standards that prevailed, meat inspectors were not ensuring that all spinal cord was removed from carcasses which were stamped. Why were these shortcomings not identified by the monitoring visits that were made by the vets who were reporting to Mr Hutchins and then to Mr Simmons?

**Monitoring of the removal of spinal cord**

4.329 We have concluded that the answer to this question is that these vets were not carrying out a thorough check on the removal of spinal cord. They were required to check on a wide range of statutory obligations in the slaughterhouse. While there was general concern as to the implication of the SBO Regulations in the gut room, no such concern was expressed in relation to standards of removal of the spinal cord. The evidence suggests that monitoring by the vets concentrated on the former and on meat hygiene regulations.

4.330 The veterinarians who served in the Meat Hygiene Division at Tolworth were agreed that the SVS Field Service were not involved in overseeing the means by which the SBO was removed from the carcasses. Mr Peter Hewson so stated in relation to the period between January 1990 and April 1991 when he was a DVO at Barton Hall Animal Health Office. He told us:

> The accent was really on . . . the material being collected, being disposed of hygienically and safely; not was it being removed from the carcass hygienically and safely?

4.331 Mr Soul agreed:

> . . . at this time there was a great deal of concern about hygiene standards in British slaughterhouses. The whole focus of the visits by the veterinary officers and the RMHAs at that time was looking at fresh meat hygiene in compliance with the fresh meat hygiene regulations, rather than with the SBO controls . . . it is a question of the emphasis – the prioritisation that was put on those different areas of work.

4.332 Mr Baker agreed in oral evidence that those at Tolworth perceived the VOs’ role as making sure that the SBOs were disposed of properly rather than examining how they were extracted.

4.333 Mr Crawford told us that:

> . . . they were asked to ensure that SBOs were being handled as they were required, kept separate, identified as such. But the emphasis would have
been on hygienic production of meat at that time, rather than separation of the SBO from the carcass.\textsuperscript{1442}

\section*{4.334} Mr David Taylor added that the important thing was that anything that was being removed as being unfit should not get back into the human food chain. Therefore it was vital that it was properly stained and properly handled and certificated from one place to the other.\textsuperscript{1443}

\section*{4.335} This evidence completes the material that had led us to conclude that the failings in relation to the removal of spinal cord that were identified in 1995 exemplified a situation that had prevailed from the time that the human SBO ban was introduced.

\section*{Summary}

\section*{4.336} We have set out this evidence in detail because the picture that it paints is clear and significant. The operation of sawing the carcass in half down the spinal cord would sometimes be carried out in a manner that left the spinal cord intact and fully exposed so that it could be totally removed. Sometimes it would result in the spinal cord being cut into segments or shredded. Sometimes a deviation of the saw would leave sections of vertebra uncut, with spinal cord trapped inside. Slivers of spinal cord could remain concealed behind the meninges which lined the spinal column.

\section*{4.337} With hindsight, we do not think it was reasonable, under the existing structure, to expect that where the slaughterman did not succeed in removing all the spinal column the meat inspector would ensure that this was done before the health stamp was applied. Just as standards of operation and hygiene varied from slaughterhouse to slaughterhouse, so did standards of meat inspection. The degree of coverage provided by the meat inspectors depended upon the decisions of the individual local authorities which employed them as to the staff that they needed to retain to perform their duties.

\section*{4.338} In the large slaughterhouse the meat inspector formed part of a conveyor belt system. The smaller slaughterhouses received a visit from an inspector to inspect the kill at the end of the day. In the larger slaughterhouses the pressures on the meat inspector could be intense. It would not have been realistic to expect that inspectors subject to such pressures would identify each occasion on which a piece of spinal cord remained in the spinal column and hold up the process by refusing to apply the meat stamp until it was removed.

\section*{4.339} In 1995, when meat inspectors came under the single employment of the Meat Hygiene Service, it proved possible to improve standards and change techniques until a stage was reached where the spinal cord was regularly removed in its entirety. This was achieved, however, only by giving this matter focused and continuous attention, and by augmenting the number of meat inspectors employed by the Service. The standards ultimately achieved afford no guide as to what it was reasonable to expect in 1990.
The course of events in 1990

The first stage of preparation of the paper

4.340 The decision to refer slaughterhouse practices to SEAC was announced by Mr Gummer to the House on 21 May 1990. It followed expressions of concern about MRM from a number of quarters, including Mr Meldrum himself. Mr F Taylor of Meat Hygiene Division was asked to produce a paper for SEAC. He did so on the basis of ‘widespread consultation on technical aspects’.

4.341 The results of that consultation confirmed the comments that had been made, in and after the consultation process, that it was not possible to ensure that a carcass was split without damage to the spinal cord and contamination of the spinal column.

4.342 The revised draft of Mr Taylor's paper included a description of the manner in which damage to the spinal cord would, in some instances, inevitably lead to contamination of the vertebrae with central nervous system tissue. This passage survived virtually unchanged to the final version of the paper.

4.343 The revised draft followed the form of a typical submission to Ministers, setting out three policy options, commenting on each, and recommending one. The option recommended was the exclusion of the vertebrae from the production of MRM. If SEAC was to be asked to advise on the action that should be taken we think that it was helpful that it should be informed of the options considered by MAFF and of the reasons why MAFF preferred one of them.

The second stage

4.344 The revised draft was circulated for comment. In response to it, Mr Meldrum indicated dissatisfaction with the recommendation of the preferred option. He did not believe that there should be any recommendation ‘at this stage’. It seems to us that Mr Meldrum was not personally persuaded that this option was the right one. In suggesting that the paper should emphasise that ‘MRM was being obtained from totally healthy cattle in which the agent would either be totally absent from the brain or spinal cord or present in very low quantities indeed’ he sought to slant the paper in favour of the option of ‘giving clear advice to the industry and to local authorities as to how to reduce any possible contamination of MRM’. He suggested that this option should be presented ‘in a rather more positive fashion’.

4.345 If SEAC's advice on the policy option was likely to be treated as decisive, as we believe it was, we can see no objection to discussion within MAFF as to how the relative merits of the options should be presented. In the event, the options were removed from the paper before it went to SEAC. The reasons are discussed below. We comment here with hindsight that while it would have been helpful to have a description of the options and MAFF’s perception of their merits, it would have been inappropriate for SEAC to be asked to select the appropriate option. The preferable course would have been for MAFF officials themselves to have recommended the preferred policy option in the light of advice from SEAC on those aspects of the matter that fell within SEAC’s expertise. While SEAC could have been involved in debate on the options, the ultimate decision should have been reserved for MAFF.
The third stage

4.346 With the help of Mr Bremner, Mr Taylor had refined his paper by the end of August to incorporate comments received. Mr Lawrence was expected to submit it in Mr Lowson’s absence on leave. It included a list of ‘possible courses of action’ – the original options – and ‘conclusions’. These recommended further research to evaluate the risk of contamination and, if such a risk were established, leaned in favour of the option of banning the extraction of MRM from the vertebrae.

4.347 Mr Meldrum remained unhappy with the paper. He did not wish SEAC to be encouraged to recommend action that went beyond what had been proposed within the SVS as ‘presentationally it will appear as if our advice is faulty’. He asked that the paper should include ‘advice we have given so far to the industry on MRM production and, in particular, to Local Authorities on removal of spinal cord tissue’. 1447

4.348 It may be that attempting to comply with this request led to delay, for we do not believe that any advice had been given to the industry or to local authorities. It may be that delay occurred because Mr Cockbill, Head of Food Standards Division, intervened. Mr Cockbill had different reservations about the option that involved legislating to ban the extraction of MRM from bovine vertebrae. He was concerned about European law and enforcement problems. While he did not suggest that the option of such legislation ‘should necessarily be excluded from the consideration’ of SEAC, he wanted the paper to be redrafted to give more emphasis to the option of ‘the rules and guidance and controls on ensuring that the spinal cord material is properly removed from the carcass at the slaughter stage’. 1448

4.349 At all events, October found Mr Lowson in the course of preparing a paper for SEAC on slaughterhouse practices, which incorporated Mr Taylor’s draft material. The final draft incorporated some points raised on 11 October by Mr Bradley, who had found the draft ‘superficial’. 1449

4.350 In the final paper, Mr Lowson summarised a number of possible areas of research and development, most of which were designed to enable a better appreciation to be made of the extent of the risk of contamination carried by the carcass-splitting operation. He removed from the paper, however, the list of policy options. The paper simply concluded by inviting SEAC to advise:

Whether any action or guidance is required in relation to slaughterhouse practices, and whether any new R&D is needed, and if so with what priority. 1450

4.351 We do not consider that Mr Lowson can be criticised for removing from the paper the specific options and conclusions, particularly having regard to the apparent difference of view between the authors and Mr Meldrum as to the preferred option. At the same time we think that it was unfortunate that SEAC was unaware of the options that MAFF officials had been debating.

1446 YB90/8.00/7.1
1447 YB90/9.03/5.1
1448 YB90/9.06/3.2
1449 YB90/10.11/8.5–8.7
1450 SEAC6 tab 1 p. 12
The slaughterhouse visits

4.352 Before the meeting at which at which they were to discuss slaughterhouse practices, members of SEAC made slaughterhouse visits in order to see some of the practices at first hand. This was sensible and commendable. It was not, however, calculated to give SEAC an accurate impression of what happened on the ground. As Mr Lowson, who accompanied one group, put it:

Nobody would have supposed that people would work normally with a group of government inspectors standing beside them watching what they were doing, and nobody was under any illusion that that was what was happening. My impression of this being a high quality abattoir – that was certainly borne out . . . Nobody was suggesting that this was what you would expect to see in an abattoir on any day of the week. 1451

4.353 Dr Tyrrell explained to us that the purpose of the visit was ‘to look at the thing on the basis of broad principles and get a bit of a feel of it by going to one or two particular abattoirs . . . there was no way we could have seen it all in one abattoir’. 1452

4.354 Oral evidence given to us confirmed the statement in the minutes of the sixth meeting of SEAC that some of the members who had been involved in the slaughterhouse visit had noted that if proper procedures were followed specified offals could be satisfactorily removed at the slaughterhouse and, in particular, that the spinal cord could be extracted from the carcass without difficulty. 1453 Dr Tyrrell told us that:

We were shown that you could in fact remove a spinal cord without leaving anything that looked remotely like a bit of nervous system behind. 1454

4.355 Mr Lowson said:

They did watch the removal of the spinal cord and I think some members of the Committee were actually quite surprised how cleanly the spinal cord could in fact be removed. 1455

4.356 Professor Barlow was not in the group that saw spinal cord removed cleanly and easily. In a statement he told us this about his visit to a slaughterhouse:

I was particularly concerned over the preparation of the sides of beef. The sagittal cut with a reciprocating saw was bound to smear spinal cord tissues along the kerf and also the saw blade, which was unlikely to be completely removed by subsequent hosing of the sides and blade.

Of even greater concern to me was the way in which the remnants of spinal cord were removed from each half of the vertebral canal; the operative wore a chain-mail glove and drew his forefinger down each side raking nervous tissue onto the floor to be hosed away subsequently. Any spicules of bone preventing access by his finger were chipped away with a cleaver. Even

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1451 T127 pp. 72–3, incorporating Revisions proposed in S104H Lowson
1452 T109 p. 104
1453 YB90/11.01/2.6
1454 T109 p. 95
1455 T127 p. 75
carefully done, it is inevitable that occasional bits of meninges or dorsal root ganglia would remain from time to time.

However, I confess that at the time I was more concerned for the operative than the ultimate consumer of the beef.1456

4.357 Mr Pepper did not go on a slaughterhouse visit with other members of SEAC, but had this to say of his experience on other visits to slaughterhouses:

The things that I could contribute at that time to SEAC were: is it possible to remove the spinal cord from where it lies? My answer is: it is not only possible, I have seen it done on many, many, many occasions, so I know it is possible. In terms of making the link between the science: is spinal cord infected, is it likely to be infected; and policy: let us remove all spinal cords, it seems to me the link is what SEAC is being asked for in that situation. One person at least on that committee was able to say, ‘I know it is possible because I have seen it done’.1457

4.358 We asked Mr Pepper whether he would have found it surprising if in four cases out of 1,000 a proportion of spinal cord was not removed.1458 He replied that he would not have been surprised if there had been a level of failure to comply with the law, though he would not put a figure on it. His reaction to a suggestion of 100 per cent compliance would have been ‘Where were you born?’1459

The sixth meeting of SEAC

4.359 Papers for the sixth meeting of SEAC, which was to be held on 1 November, were sent out on 23 October.1460

4.360 The paper on slaughterhouse practices was one of a number of detailed papers supplied to SEAC for consideration at this meeting. Topics included:

- The rendering industry and the production of tallow
- A deactivation protocol
- Bioassay of experimental samples in mice
- Epidemiology, with particular reference to the apparent incubation period
- Risk assessment research
- Possible changes in the scrapie agent.

4.361 The agenda also included the following matters arising from the previous meeting:

- Research coordination
- Surveillance of spongiform encephalopathies in pigs, hounds and cats
  - A paper by the National Farmers Union (NFU)

1456 S565 Barlow para. 13 (part)
1457 T109 pp. 95–96
1458 This was the calculation made in 1995 of the extent of failure to comply with the ban that had been identified
1459 T109 p. 97
1460 YB90/10.23/3.1
• Transmission experiments.\textsuperscript{1461}

4.362 We did not seek to explore the discussion that took place at SEAC’s sixth meeting until Phase 2 of the Inquiry. This meant that we only heard oral evidence about this from three of those who were present, Dr Tyrrell, Mr Lowson and Mr Pepper.

**SEAC’s advice on slaughterhouse practices**

4.363 The preparation of the paper on slaughterhouse practices had taken MAFF officials over four months. It had involved wide consultation and investigation of the practical effects of the practices under discussion. It raised a number of questions, most prominently the significance of the contamination with central nervous system tissue that occurred when the spinal cord was damaged in the course of carcass-splitting. That contamination was primarily of the spinal column, which had obvious implications in relation to the use of the spinal column as a source of MRM.

4.364 Quite apart from this contamination, the paper raised the question of the infectivity of peripheral nervous tissue in way of the spinal column. This had been troubling Mr Meldrum, who was perhaps stimulated by learning of concerns about dorsal root ganglia expressed by Mr Godfrey (see paragraph 4.248).

4.365 The paper indicated a number of areas in which R&D could be useful, including bioassay of potentially contaminated tissue.

4.366 The paper also raised a number of questions about the contamination risks involved in the practice of pithing. A further question not expressly raised, but of concern to Mr Bradley, who attended SEAC’s meeting as an observer, was the possibility that pithing might result in infected nervous tissue being carried round the vascular system before the heart stopped beating.\textsuperscript{1462}

4.367 SEAC’s response to this paper is reported in the following paragraph in the minutes:

> Those members who had been involved in the slaughterhouse visit had noted that, if proper procedures were followed, specified offals could be satisfactorily removed at the slaughterhouse, and in particular that the spinal cord could be extracted from the carcass without difficulty. The Committee therefore concluded that, provided all the rules were properly followed and supervised, there was no need to recommend further measure on the grounds of consumer protection (operator safety was a matter for HSE).\textsuperscript{1463}

4.368 The minutes suggest that the reasoning of the Committee was as follows:

> If all the rules are properly followed and supervised, spinal cord will be extracted without contamination. Provided that this occurs there is no need to recommend further measures.

\textsuperscript{1461} YB90/10.23/3.2
\textsuperscript{1462} YB90/10.11/8.7
\textsuperscript{1463} YB90/11.01/2.6
4.369 In his evidence Dr Tyrrell also suggested that SEAC’s advice was subject to the proviso that the spinal cord was entirely removed:

We were shown that you could in fact remove a spinal cord without leaving anything that looked remotely like a bit of nervous system behind. But we then made a conditional view, gave a conditional view, which was provided that was what happened, we regarded it as acceptable.\(^{1464}\)

4.370 Neither Dr Tyrrell, Mr Pepper nor Mr Lowson could recollect discussion about MRM and none was minuted. We asked what consideration SEAC gave to MRM at the meeting and Dr Tyrrell replied: ‘I do not think it was much, anyhow. Perhaps that is why it is not mentioned in the minutes’. He suggested:

I suspect that what happened was that we reckoned that there was not really a problem with MRM if the vertebral column was being cleanly cut and dissected. So the MRM was really, in a sense, covered by our comment that if the regulations were satisfactorily carried out, and they were properly monitored, then there was not a problem.\(^ {1465}\)

4.371 So far as concerned the areas of research that the paper suggested could be useful in quantification of the amount of central nervous system tissue that might be getting into MRM, Dr Tyrrell informed us in a statement:

The conclusion of SEAC, at the meeting, did not cover research and development or its priority.\(^ {1466}\)

4.372 In his oral evidence Dr Tyrrell said:

But we stopped there and, as I recall it, we never really came clean on any of these alternatives here.\(^ {1467}\)

4.373 Mr Pepper told us:

I do not think we did give the answers that were expected of us as it happens.\(^ {1468}\)

4.374 If the minutes, and Dr Tyrrell’s evidence, are correct, SEAC failed to deal with the questions raised by the paper on slaughterhouses. The paper described contamination that \textit{inevitably occurred} as a consequence of carcass-splitting and asked for advice in respect of this. It was of no assistance to reply that no action was necessary \textit{provided no contamination occurred}.

4.375 We do not believe that the members of SEAC intended to give an answer as unhelpful as this. We feel that some, at least, must have advised on the basis that a degree of contamination would inevitably occur on occasion and that this was acceptable. We believe, however, that those who were not familiar with slaughterhouse practices were deceived by the apparent ease of the operation that they witnessed. This led them to conclude that if slaughterhouse procedures were

\(^{1464}\) T109 p. 95  
\(^{1465}\) T109 p. 109  
\(^{1466}\) S11B Tyrrell para. 112  
\(^{1467}\) T109 p. 95  
\(^{1468}\) T109 p. 96
properly followed and supervised the type of contamination described in MAFF’s paper would occur so rarely that it could be disregarded.

4.376 In reaching this conclusion, there was much of which members of SEAC were unaware.

4.377 They were unaware both of the extent to which there was cause for concern about contamination of MRM and of the actual concern that was felt. Dr Tyrrell told us that he was unaware of anxiety about standards in slaughterhouses and that, had he known of this, it would have been bound to colour the advice that they gave. He was not aware of concerns expressed by Ministers or MAFF officials. SEAC was not told of the concerns expressed in responses to the SBO consultation process, nor of concerns expressed by IEHO. It was not aware of the options that MAFF officials had been debating in the course of 1990.

**What did SEAC have to offer?**

4.378 If, as we believe, SEAC’s advice was based upon its own assessment of the ease with which spinal cord could be removed, it was advising on a matter on which it was much less qualified than were MAFF officials to form a view.

4.379 We explored with SEAC the nature of the contribution that it was in a position to make to decisions about slaughterhouse practices:

Lord Phillips: We have asked ourselves, as a Committee: what really did SEAC have to contribute to this particular debate? I can see that there might have been a question, would this amount of contamination matter; there might have been a question, is pithing liable to give rise to a pulmonary embolism which could result in contamination from the brain in other parts of the cow; but on the question, are slaughtering practices going to result in one bit of tissue coming into contact with another, did SEAC have anything really to contribute?

Dr Tyrrell: Well, Sir, as I recall it we had already made a firm statement that it was a bad idea – I put it no higher than that – to allow central nervous system to spread around in the course of the slaughtering abattoir practice, and in one specific instance it was what about splitting heads of cattle before the meat was recovered, the cheek meat was recovered? We said no, it does not make sense at all, do not do it.

Lord Phillips: Can I just pause there? Is that something on which SEAC had anything particular to contribute, apart from common sense?

Dr Tyrrell: I think it had in the sense that we have already referred to the fact that there was some misunderstanding as to the very high potency of infectious material inside the brain, and if people were thinking, ‘Oh, it is rather like the contamination you can see, if you wipe a duster over, you can see something on it’, something that is totally invisible is quite enough to carry infection. So I think there was a point in getting it back to us; that infection is very high and therefore...
We were also asked to comment on it and we did say, ‘We do not know much about this modern practice, but we will do what we can, but only after we have been to see an abattoir or abattoirs’. 1471

4.380 It seems to us that Dr Tyrrell correctly acknowledged that his Committee was not well equipped to advise MAFF on the physical consequences of slaughterhouse practices. What SEAC was well qualified to advise on was the extent to which those consequences would, or might, involve risk to man.

4.381 SEAC was particularly well placed to advise on the quantity of central nervous tissue that might suffice to infect. That was a matter that it had already considered in its advice to the CMO on the safety of beef. If SEAC held the view that something that was ‘totally invisible’ was quite enough to carry infection, that view would be a valuable contribution to the debate.

4.382 Our conclusion is that SEAC did not discuss the questions raised by MAFF’s paper on which it was best qualified to advise. It did not advise on the significance that attached, or might attach, to the contamination that the paper described as inevitable. It did not advise on any further research that might assist in solving this problem. It did not give any indication of the amount of central nervous tissue that might contain an infective dose. All these questions it side-stepped on the basis that if the rules were properly observed and proper supervision was maintained, these problems would not arise.

4.383 The paper which so carefully described the operation of carcass splitting and the contamination that would inevitably result was prepared to inform SEAC of matters that fell outside its expertise. The expectation was that it would address these matters in its advice. In the event it advised instead on the basis of conclusions formed on a slaughterhouse visit to witness procedures with which it was not familiar in demonstration conditions that were far removed from ordinary slaughterhouse conditions.

4.384 Are the members of SEAC open to criticism for dealing with the paper on slaughterhouse practices in this way? We do not think so.

4.385 In the first place we feel that it would have been more helpful to SEAC if the advice sought from it had been more specifically targeted. We have already indicated that it would have helped if SEAC had been informed of the options that MAFF officials were contemplating. We believe that the appropriate way to use SEAC’s expertise in relation to slaughterhouse practices and MRM would have been to seek advice on the significance of the contamination that was involved. SEAC could profitably have been involved in discussion about the possible options for avoiding or reducing contamination. It was not, however, an appropriate use of SEAC’s expertise to expect it to weigh up all the matters set out in the paper presented to it and decide upon the appropriate policy option. That was something that MAFF officials were better placed to do.

4.386 In the second place we feel that it was asking a lot of SEAC to expect it to deal comprehensively with the slaughterhouse paper when it formed part of such a heavy agenda. In this context it is worth quoting a portion of a Progress Report sent by Mr Lowson to Mrs Attridge on 4 July:

1471 T109 pp. 93–4
The group has not yet been able to establish a crisp and businesslike way of working; the production of documents and advice is cumbersome and as a result inadequate attention has been paid to some issues. The Committee (and particularly the Chairman) obviously feel uncomfortable about offering firm advice on specific measures and from now on may well try to avoid doing so, preferring to describe the scientific situation and explicitly leaving the policy decisions to Ministers. It was only with some difficulty, for example, that they reached a clearer conclusion in writing on the issue of the removal of head meat than that contact between meat and brain or spinal cord should if possible be avoided.\footnote{YB90/7.04/4.1}

4.387 Had SEAC been aware of the extent of the concerns expressed about contamination resulting from carcass-splitting and its impact on MRM, and had it been aware of the provisional conclusions reached by MAFF officials, we think it likely that it would have endorsed the suggestion that further research be carried out in order to quantify the amount of spinal cord material getting into MRM. This might have led to SEAC endorsing the further option of recommending a ban on the extraction of MRM from the bovine vertebrae. We would not put it higher than this. In 1995 it was demonstrated that, in a small minority of cases, carcasses were being health stamped despite the fact that they contained portions of spinal cord. It was only after considerable debate that SEAC recommended that MRM should no longer be extracted from bovine vertebrae. We cannot be confident that the same decision would have been reached in 1990.

**The reaction to SEAC’s advice**

4.388 Witnesses described to us their understanding of SEAC’s advice and, in particular, its proviso.

4.389 Mrs Jane Brown took over as head of Meat Hygiene Division in September 1990. She understood SEAC’s advice to indicate that the ‘inevitable’ contamination referred to in the paper before them was acceptable\footnote{T129 pp. 27–32} provided that proper slaughterhouse practices and supervision ensured that this was kept to a minimum.\footnote{T117 p. 78} In a written statement she remarked:

I considered that the proviso in SEAC’s advice concerning the need to ensure that the rules were properly followed and supervised was an endorsement of the 1989 Regulations. The paper which SEAC considered had made it plain that in practice there was a risk that some contamination with fragments of spinal cord or nervous tissue could occur. I believed that if SEAC considered that these risks (which related both to MRM and to slaughterhouse practices affecting the production of carcass meat) were unacceptable, they would have phrased this conclusion in stronger terms, stressing the need to ensure 100% avoidance of this type of contamination.\footnote{S79C Brown para. 10}

4.390 Mrs Attridge also said that she understood SEAC’s advice to be subject to the proviso ‘that the slaughterhouse processes, the practices in slaughterhouses’ were carried out correctly.\footnote{T129 pp. 27–32} She appreciated that 100 per cent removal of the...
spinal cord could not be guaranteed, for she had seen a draft of the paper on slaughterhouse practices. She did not read the proviso as incompatible with the paper.

4.391 Mr Meldrum’s position is summarised in the following paragraph of a statement made to the Inquiry:

. . . my concerns at the time related to risks related to the use in food for human consumption of MRM derived from bovine carcasses as a result of fragments of spinal cord inadvertently remaining in the spinal canal and contamination from carcass splitting. All the background information available at the time which was pertinent to an assessment of these risks and which had been put together as a result of extensive consultation within MAFF had been provided to SEAC in SEAC 6/1, the paper on slaughterhouse practices (see paragraph 16 above). SEAC had been asked to consider ‘on the basis of the available evidence whether any action or guidance is required in relation to slaughterhouse practices, and whether any new R&D was needed, and if so, with what priority’. Having received the information in SEAC 6/1, coupled with the visit of several members of SEAC to slaughterhouses, the Committee had concluded that there was no need to recommend further measures on the grounds of consumer protection. This allayed my concerns to the extent that it indicated that SEAC were not unduly worried about any risks raised in SEAC 6/1, in particular those risks arising from the fact that ‘inevitably when bovine carcasses are split through the centre of the vertebral column in the slaughterhouse some nervous tissue can remain and some contamination of the vertebrae with central nervous system (CNS) tissue can occur’. SEAC made the important caveat that they were content provided that all the rules were properly followed and supervised. I had no reason to believe that this was not the case . . .

4.392 Initially we were concerned by the fact that the evidence of each of these witnesses was hard to reconcile with the meaning of SEAC’s proviso as it appeared in the minutes, a draft of which had been sent to each by Mr Lowson on 8 November. Mrs Attridge had no recollection of receiving these and we have concluded that it would not be right to proceed on the assumption that any individual witness read these draft minutes. Mr Lowson’s minute to Mr David Maclean, dealing exclusively with slaughterhouse practices, was sent out a day later. This did not make it clear that SEAC was advising on the basis that, if proper procedures were followed, the spinal cord could be extracted from the carcass without difficulty.

4.393 Anyone reading the minute to Mr Maclean and who was aware of the references to inevitable contamination in the paper that had gone to SEAC could reasonably conclude that SEAC’s view was that, provided such contamination was kept to a minimum by proper slaughterhouse practices and due supervision, such contamination was not cause for concern.

4.394 What of Mr Lowson himself? In oral evidence he told us:

1477 SEAC6 tab 1 paras 23–4
1479 S184E Meldrum para. K 21
1479 T117 pp. 67–70; see also the comments in S78F Attridge
My conclusion was that they shared the view that total avoidance of contamination was not necessary. But that is not written down in so many words in the minutes of the SEAC meeting or of the advice which they offered.\textsuperscript{1480}

4.395 We have already expressed our own belief that some, at least, of the members of SEAC must have advised on the basis that slaughterhouse practices would, on occasion, involve a degree of contamination with spinal cord (see paragraph 4.375). Precisely what was said, and by whom, at SEAC’s meeting on 1 November cannot now be recalled. We have no reason to think that Mr Lowson’s understanding of SEAC’s view was not one that it was reasonable for him to reach.

\textit{SEAC’s proviso as understood by MAFF officials}

4.396 We have seen that Mrs Attridge, Mrs Brown, Mr Lowson and Mr Meldrum all understood that SEAC’s advice that no action was necessary in relation to slaughterhouse practices was subject to the proviso that slaughterhouse procedures were properly followed and supervised.

4.397 We explored with witnesses whether that proviso should not have acted as a ‘wake-up call’ – the phrase was Mr Capstick’s – that MAFF needed to take steps to ensure that the proviso was satisfied. We suggested that this was particularly necessary because hygiene standards in general in slaughterhouses were known to be poor and there could therefore be no confidence that removal of spinal cord would be properly effected and supervised.

4.398 We have set out in some detail evidence of the poor standards of hygiene prevalent in so many slaughterhouses. Officials at MAFF were well aware of the position. Mr Cruickshank told us that in 1989 there was a feeling within the Ministry:

\begin{quote}
That the standards of hygiene in slaughterhouses was pretty low in the UK – a good deal lower than in most other developed countries.\textsuperscript{1481}
\end{quote}

4.399 Mr Crawford told us that he agreed with this evidence. He told us:

\begin{quote}
It was well recognised that the standards were poor. The export approved . . . was of a higher standard than the domestic slaughterhouse. But many of the domestic slaughterhouses had major problems. These were well known.\textsuperscript{1482}
\end{quote}

4.400 Mr Crawford went on to suggest that poor hygiene standards had no read-across to the standards of enforcement of regulations, such as the SBO Regulations, designed to protect human health. MAFF had had no cause for complaint in relation to the handling of that aspect of practice in slaughterhouses.\textsuperscript{1483}

4.401 The response of other witnesses was to similar effect. It did not follow from the fact that hygiene standards were poor that meat inspectors were disregarding their obligations in relation to unfit meat. They believed that the SBO Regulations
were being properly supervised and that adequate instructions had been given to local authorities in respect of the importance of compliance with these Regulations.

4.402 Mr Capstick expressed the view that SEAC, by its proviso, ‘ducked the question’ of whether the process of removing the spinal cord was in fact being done effectively. He was unaware of whether that proviso was transmitted, as a ‘wake-up call’, to the meat inspectors and local authorities. This was not his personal concern. He suggested that DH and MAFF shared responsibility. So far as MAFF were concerned, he thought that Mr Lowson, as Secretary of SEAC and head of Animal Health Division, and Mrs Brown as head of Meat Hygiene Division might have a role; also that Mr Keith Baker and his team should have been checking that sides of beef were clean of spinal cord.\footnote{T119 pp. 55–60}

4.403 Mr Lowson told us that he had no personal responsibility for seeing that SEAC’s proviso was satisfied as his Division was concerned with animal health, not human health. His duty was to see that SEAC’s advice was relayed to those within government with relevant responsibilities. Mr Lowson circulated the draft minutes of the SEAC meeting under cover of a minute which stated that, so far as slaughterhouse practices were concerned, SEAC’s advice required ‘no further action’ (see paragraph 4.293). That was true only if SEAC’s proviso was satisfied.

4.404 Mr Lowson has stated that:

> At the time I had no grounds for believing that local authority enforcement was such that industry could not be relied upon to comply rigorously with SBO Regulations; and I was aware that State Veterinary Service colleagues were active in monitoring the situation.\footnote{S104D Lowson para. 36; see also S104H Lowson}

4.405 This was explored further when Mr Lowson returned to give evidence in Phase 2. He was asked whether he did not consider that SEAC’s proviso required him to convey the message that positive measures needed to be taken to make sure that spinal cord was removed.

> No, I believe those responsible were already aware. If you look at the measures that were being carried forward in the context of the time, there is a good deal of evidence of that. This is not intended as a complete list of all the action that might have been taken. For example, the Chief Veterinary Officer asked Mr Baker to check on the enforcement of the regulations in February 1990, that is YB90/02.06/6.1. In June of 1990, YB90/6.21/18.1, there had been a telex sent out from Tolworth calling for checks on slaughterhouse practices that had been sparked off by concerns relating specifically to mechanically recovered meat.

> At the time that the SEAC slaughterhouse visit took place, we were of course setting in hand the measure to remove specified offals from the animal feed chain which was implemented in September of that year, and that was associated with further instructions from headquarters (Mr Baker and Mr Crawford), to the Veterinary Service to ensure that specified offal measures were being correctly enforced, and a letter from my Division to
Local Authorities, again drawing their attention to the need to enforce the regulations.

Although these were in the context of the animal feed regulation, the part of the process which happened in the slaughterhouse was the same, and the measures that had to be enforced in the slaughterhouse were not changed as a result of the introduction of the feed ban. So instructions to the field and requests to local authority enforcement agencies to check on the enforcement of the SBO ban in the context of introducing a feed measure were equally relevant to the enforcement of the SBO ban that it was already in existence. So I was satisfied in brief that those responsible for enforcement did not need to be reminded of the importance of adequate enforcement implied by the SEAC advice.1486

4.406 Mrs Brown explained why she was confident about standards of local authority enforcement.

I think it is important to draw a distinction between the enforcement and supervision of the hygiene standards in slaughterhouses and the enforcement and supervision of the SBO controls, because as you have received a lot of evidence on problems relating to hygiene and inspection and veterinary supervision in slaughterhouses, I think it is fair to say that we did not have similar concerns about the way in which local authorities approached the enforcement of the SBO regulations.

I think the discussions that we had had, that my colleagues had had in the early part of 1990 with the Local Authority Associations, indicated quite clearly that the local authorities regarded these regulations as a very important part of the mechanism to protect human health; and the reason that there were these obviously at times quite difficult discussions with the Institute of Environmental Health and so on were because they were concerned about the practicalities of enforcement, and were keen to see that the protection worked properly.1487

4.407 She explained that meat inspection was a more precise duty than hygiene enforcement, ‘which was a much more complicated sort of requirement’.1488 When asked how, if hygiene was lamentable, one could be sure that meat inspection was perfect, she replied:

I think because our surveillance was carried out by the meat trained VOs in the field . . . The same person was going into a slaughterhouse to check on all aspects of the operation of that slaughterhouse.1489

4.408 Mrs Brown also referred to a telex from Mr Baker to DVOs on 12 November which asked for details of how slaughterhouses were handling SBO.1490 Mrs Brown told us that she thought that this related both to enforcement of the animal SBO ban and to slaughterhouse practices considered by SEAC.

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1486 T127 pp. 83–4, incorporating Revisions proposed in S104H Lowson
1487 T129 pp. 29–30
1488 T129 p. 31
1489 T129 p. 32
1490 YB90/11.12/6.1
I mean there were two things going on simultaneously. There was the introduction of the animal SBO ban which was pretty recent, that was September 1990, and there was the SEAC consideration of slaughterhouse practices. Now, I was aware that this telex went out from Keith Baker ten days or so after the SEAC meeting; and I think my impression was that this was addressing both areas of concern. That there was the need to check on the way things were being handled through the animal feed chain, and also to keep up the level of vigilance which, as I say, was already pretty high because of the reminders that had been issued previously on how the slaughterhouses were dealing with the whole of the SBO exercise.  

4.409 Mrs Attridge told us that she was very well aware of the fact that general standards in UK slaughterhouses were variable, as would have been most people dealing in the animal health hygiene area. She referred to difficulties in tackling concerns about these, particularly in non-export slaughterhouses, where the VFS had no powers of entry and had to ‘tag along’ with the local authority inspector.

4.410 Dealing with SEAC’s proviso, Mrs Attridge said that there were arrangements to check on the position at slaughterhouses and the reports indicated that problems were being dealt with as and when they arose. When it was pointed out that these reports were not initiated until 1991 she said that ‘prior to that there had been a more informal report back’. She said that she had every confidence that the veterinary staff would ensure that the Regulations were met.

4.411 Mr Meldrum had, in September 1990, been under the impression that some advice had been given to industry on MRM production and to local authorities on removal of spinal cord tissue. He had asked for particulars of this to be inserted in the SEAC paper. No particulars were inserted.

4.412 Mr Meldrum was asked whether any advice had been given to local authorities about removal of spinal cord and tissue. He answered:

I am having difficulty in finding what I wanted to find. I have been searching and searching and searching because at that time when I made that comment I assumed that to be the case. And nobody came back to me and said ‘that is not the case’. I am certain that there was a great deal of discussion between Veterinary Officers who were working, doing audits in slaughterhouses between themselves, and EHOs and meat inspectors at the time they did their routine inspections both of export approved and domestic premises. I am certain that was an ongoing discussion. I have failed to find any specific instructions of the nature that I had been driving at in the papers that I have reviewed so far.

4.413 We have set out above (at paragraphs 4.147–4.148) the telex that was sent by Mr Bremner on 21 June 1990 to all RMHAs. That gave the general instruction that VOs should ensure full compliance with the 1989 SBO Regulations on their visits to slaughterhouses and cutting rooms and that these Regulations should be added to the list to be checked on Form MH1.

1491 T129 p. 44
1492 T117 p. 63
1493 T117 p. 64
1494 T117 pp. 70–3
1495 T123 p. 91
Mr Baker’s telex of 12 November, to which Mrs Brown referred, was dealing with the handling of SBO at renderers and at slaughterhouses and would not focus the attention of the recipient on the need to ensure full removal of the spinal cord. Mr Baker told us that he had no involvement in the reference of slaughterhouse practices to SEAC, did not receive the minutes of their meeting and, indeed, was unaware that SEAC had considered MRM.1496

That telex, and the subsequent instructions that were sent in relation to monitoring of the 1989 Regulations, were all sent in an attempt to ensure that SBO was not getting into animal feed. No instructions or guidance was sent to emphasise the importance of monitoring full removal of the spinal cord.

We were initially sceptical about the proposition that there was no read-across from the standard of hygiene in slaughterhouses to the standard of compliance with regulations relating to unfit meat. We were, however, persuaded that it was not right to infer that slaughterhouse operatives and meat inspectors in a slaughterhouse with poor hygiene would be less rigorous in ensuring that offal which was unfit for human consumption, including SBO, was properly removed from the carcass.

We note that, while shortcomings were discovered in 1995 in relation to the removal of spinal cord, the extent of these was relatively modest and in no way reflected the shortcomings that had been identified in relation to general hygiene and activities in the gut room.

We do not consider that SEAC’s proviso was intended to be a ‘wake-up call’ drawing attention to the need to take additional action in relation to performance by slaughterhouses and local authorities of their obligations under the Regulations, nor that MAFF officials should have interpreted the proviso in that way. Consequently, we do not criticise any individual in relation to the approach taken by MAFF towards MRM in 1990.

Résumé

Mr Gummer had been reassured by his officials that there was no cause for concern about MRM. There was, however, public concern about slaughterhouse practices in general and MRM in particular, which was reflected in Parliamentary attacks on the Government’s handling of BSE.

In these circumstances Mr Gummer decided to refer slaughterhouse practices to SEAC. SEAC did not have expertise in the technical aspects of slaughterhouse practices, but was well qualified to express a view on the significance of any contamination that resulted from them.

The reference of slaughterhouse practices to SEAC stimulated MAFF to carry out a detailed assessment of the contamination consequent upon carcass-splitting for incorporation into a comprehensive paper on slaughterhouse practices for SEAC. Contributions were made from various divisions, including the SVS, Meat Hygiene Division, Food Standards Division and Food Sciences Division.
4.422 This assessment noted that contamination would result from small pieces of spinal cord inadvertently remaining in the vertebral column. It also explained that carcass-splitting would inevitably, on occasion, transfer tissue from the spinal cord onto the carcass, where it would be concentrated around the cut surface of the spinal column. How much of this would remain after routine washing and be transferred into MRM recovered from the spinal column was unknown.

4.423 Those who carried out this assessment identified a number of options to address this contamination problem. The least was the giving of advice on carcass-splitting to the slaughterhouse operators and on inspection to local authorities. The preferred option, if the amount of contamination entering MRM was unacceptable, was to ban recovery of MRM from bovine vertebrae. Further research was desirable to quantify the contamination.

4.424 At this point most of the task necessary for assessment of the risk had been done. Input from SEAC was needed by way of confirmation that officials’ proposed action was appropriate having regard to the contamination that MAFF officials had diagnosed as inevitable.

4.425 Had this question been put to SEAC we have little doubt that it would have endorsed the proposal for research to quantify the amount of spinal cord getting into MRM. In the event, having been asked to advise generally, SEAC advised on the basis of its own assessment that if slaughterhouse procedures were properly carried out there would not be a problem. This assessment was at odds with that of the authors of the paper, who were better qualified to make it.

4.426 SEAC’s advice was treated as establishing definitively that the contamination described in the SEAC paper was not cause for concern. The effect of SEAC’s advice was that no action of any kind was considered necessary, or taken, to address the potential risk posed by MRM until 1995. This demonstrates a serious breakdown in communication. SEAC’s intervention had hindered rather than helped the process of risk evaluation and management.

4.427 This unhappy chapter in the BSE story demonstrates the importance of targeting advice sought from expert committees so as to ensure that they provide input based on their expertise. It also demonstrates the dangers of overloading a part-time committee of busy people.

**EC Commission Decision 90/261/EEC (beef-on-the-bone and nervous and lymphatic tissue)**

**Background**

4.428 European Commission Decision 90/261/EEC (the Decision) was made on 8 June 1990 following a meeting by the Agriculture Council (comprising Agriculture Ministers of all member states) on 6–7 June 1990. It required the UK to certify that all boneless beef for export to other member states was ‘Fresh meat from which during the cutting process obvious nervous and lymphatic tissue has been removed’. It also required certification in respect of bone-in beef that the
animals were ‘not from holdings in which BSE [had] been confirmed in the previous two years’. This section looks at the implementation of the Decision – insofar as it relates to obvious lymphatic and nervous tissue – by the UK.

4.429 The Decision was made against the background of unilateral bans on imports of beef and cattle from the UK imposed by Austria, France, Germany and Italy.

4.430 The Agriculture Council meeting of 6–7 June had been called in order to resolve the political row caused by the bans, and as a consequence of the Decision made after that meeting, France, Germany and Italy lifted the trade restrictions on UK beef and live animals.

Advice from the EC Scientific Veterinary Committee on nervous and lymphatic tissue

4.431 The subject of nervous and lymphatic tissue in boneless beef was raised at a meeting of the animal and public health sections of the EC Scientific Veterinary Committee (ScVC) on 8 January 1990. The note of the Committee’s meeting records its opinion that:

Meat derived from animals in countries in which BSE is widespread is not considered to be a significant danger to public health. As a precautionary measure every attempt should be made to prevent the inclusion of large quantities of lymphatic and nervous tissue from products intended for human consumption.

4.432 At a meeting of the SVC on 16–17 January 1990, the Commission considered that:

... the Scientific Veterinary Committee opinion was that [beef] meat was safe and that following the normal cutting practices would meet the Scientific Veterinary Committee’s view that the obvious nervous and lymphatic tissue should be removed. In addition specified offals were being taken out of the food chain. Thus no further action was required on meat.

4.433 The animal and public health sections of the ScVC met on 6 June 1990 just before the Agriculture Council meeting. In relation to nervous and lymphatic tissue they amended their opinion of 8 January to read as follows:

In light of present knowledge, meat derived from bovine animals in countries in which BSE occurs is not considered to be a danger to public health. Nevertheless, as a precautionary measure, every attempt must be made during the cutting process to remove obvious nervous and lymphatic tissues to be supplied to the consumer. These tissues, where removed, must not be put into products for human consumption.

1497 Decision 90/261/EEC, article 2 (L18 tab 8). This was not a requirement for bone-in beef sold within the UK. We have noted in Chapter 2 that the epidemiology did not suggest that significance attached to whether or not a cow came from a BSE-free herd
1498 YB90/1.08/10.1–2
1499 YB90/1.23/17.1–17.5 at 17.2
1500 YB90/6.06/12.1–12.8 at 12.8
MAFF’s considerations of how to implement the Decision

4.434 MAFF conducted a survey at the time of the Decision to establish the cutting procedures employed in UK plants. It noted that the procedures varied widely, from those plants which removed ‘virtually all’ lymph nodes to those which removed very few. It was also noted that healthy lymph nodes were traditionally used in meat products for human consumption or rendered for either human or animal food.1501

Initial guidelines issued

4.435 The same day the Commission issued its Decision, Mr Keith Baker, ACVO, issued guidance on its interpretation and implementation by telex to all local authorities, DVOs and RVOs. The telex set out the arrangements that OVSs would need to follow when providing expert certification and was said to be of immediate effect. In respect of boneless beef, it noted that (by contrast with bone-in beef):

The agreement reached at the Agriculture Council does not require any different arrangement for boneless beef for export as compared to the domestic market.1502

4.436 After setting out the ScVC’s opinion, the telex stated:

This means that those lymph glands and nervous tissue which are revealed during the cutting process must be removed.

Where beef is to be cut up at a separate cutting plant the carcass meat must be accompanied to the cutting plant by an EC 60 support document. On export from the cutting plant the deboned meat would be certified as [required by the Commission Decision].1503

4.437 The telex quoted the ScVC’s opinion that removed tissue should not be used for human consumption, but did not set out any arrangements for dealing with such tissue.

Further discussion takes place on implementing the decision

4.438 On 8 June the Minister met with farming and meat industry representatives to discuss the events of the past two days. A note of the meeting prepared by the Federation of Fresh Meat Wholesalers records the Minister as stating that more rigorous standards of cutting were required to comply with the ScVC’s opinion. These would need to apply to all UK premises where carcasses were cut, including butchers. He stated that MAFF would issue guidelines to indicate that this material should not enter the human food chain.1504

4.439 The MAFF note of the meeting records the Minister as stating that it was not proposed to introduce special arrangements for the disposal of this material. He
simply wished to see that the entire industry ensured that the nervous and lymphatic tissue removed during cutting did not go for human consumption. The note summarises the Minister’s views as follows:

What was important was that the whole industry rapidly ensured that all the materials were removed from the human food chain; it should be clear that these arrangements applied to all animals, whether going for export or domestic consumption.  

4.440 A representative from the NFU asked what was meant by lymphatic tissue and the Minister agreed to provide additional guidance on this, which would be distributed to the meat trade. The MAFF note also records:

The Secretary [Mr (now Sir) Derek Andrews] said that it was important that the trade were not drawn on the question of what happened to the lymphatic tissue (other than the specified offals) which was removed during the cutting process, in advance of a Community decision on this question.  

4.441 On 13 June 1990, Mr F Taylor of Meat Hygiene Division prepared a draft minute for Mr Meldrum. The purpose of the draft was to seek approval from MAFF Ministers for sending guidance, in order to implement the Decision, to local authorities and the meat trade. The draft considered that the Decision was better implemented by guidelines rather than by legislation. It noted that healthy lymph nodes removed from the cutting process normally went into products for human consumption or were rendered. It continued:

To implement a ban on the use of lymph tissue for human consumption by legislation is considered to be contentious, derisive and, as a result, counter-productive. Clear guidance issued to District Councils and trade associations on the other hand is likely to be considerably less controversial, more effective, speedier to implement and would be more sympathetically received by the meat processors.  

4.442 It is not clear whether the views expressed in the draft minute were discussed with Ministers.

Further guidelines issued

4.443 Mr Meldrum issued further guidelines regarding the Commission Decision via telex on 16 June. These were addressed to DVOs, RVOs, RMHAs, RMAs and DEOs. The DVOs were requested to pass the contents of the guidelines on to OVSs and local authorities in their division. The guidelines stated:

Following the advice of the Scientific Veterinary Committee endorsed by the Agriculture Council and the EC Commission regarding the cutting of meat, the following action must be taken at all cutting premises, whether supplying the domestic or export market.
All lymphatic and nervous tissue that is exposed during normal cutting operations must be trimmed off, so that such material is not visible on the cut surfaces of the meat.

Lymphatic and nervous tissue that is removed must not be used in meat preparations or products that are intended for human consumption.1508

4.444 A similar telex was sent to professional and industry representatives.1509

4.445 The instructions were further amplified by a telex from Mr Alan Bremner, Superintending Meat Hygiene Adviser, to all RMHAs on 21 June. This stated:

Will you please ensure that veterinary officers when they visit export status slaughterhouses, cutting rooms, mince plants and meat products, check that the OVS/LVI is fully aware of the contents of Mr Baker’s telex of 8/6/90, the CVO’s telex of 14/6/90 and my telex of 19/6/90 regarding the action necessary to comply with the requirements of the importing countries of the EEC.

... Will you please send a report to Mr Walker, SMHA, at the end of each month starting at the end of June on the Standards of compliance found during the VO visits.1510

Further steps on implementing the Decision

4.446 In a note to the Minister dated 26 June 1990, the Permanent Secretary, Mr Andrews, outlined some further steps required on various BSE measures. In relation to the removal of ‘obvious nervous and lymphatic tissue’ he noted the advice that had been given to local authorities and continued:

We do however need to consider to what extent the advice that has been put out so far has achieved the intended result and whether any further action (for example, encouraging the industry to put out separate advice to butchers/retailers) is necessary. I have asked for advice to come forward to you on this issue.1511

4.447 The Minister agreed with this approach and it became the subject of an exchange of minutes between Mrs Attridge and Mr Lowson.1512

4.448 A different approach to implementing the Decision was proposed by the Parliamentary Secretary, Mr David Maclean. On 5 July 1990 he sent a note to Mr Gummer setting out proposals for further actions on BSE. On lymphatic material he suggested that the major lymphatic tissue needed to be added to the list of SBO under the Bovine Offal (Prohibition) Regulations 1989. In response, Mr Gummer requested advice from MAFF officials on this proposal.1513
4.449 This was provided to the Minister by Mr Andrews on 10 July. On lymphatic materials, Mr Andrews noted:

I am sympathetic to the point. It does look illogical not to treat as for specified offals. But there are clearly serious problems about extending the ban.\textsuperscript{1514}

4.450 These ‘serious problems’ were elaborated in the main body of the advice:

Ministers have agreed the line that major lymphatic material is already removed and that the specific requirement in the latest EC Commission proposal was largely for presentational purposes. Guidance has been issued on this for clarification. A statutory provision would however increase public concern as it would be assumed that such removal had not been normal practice and could lead to pressure for the removal of all such material from meat, which would be impossible to implement as lymphatic material is throughout the carcass and is exposed wherever meat is cut. This would not just be at cutting premises but would include butchers’ shops, restaurants, etc. If such material had got to be treated as specified offal then all premises would require staining facilities and collection services. This would be disproportionate to the risk, lead to a number of premises not wishing to handle beef and enforcement would be impossible.\textsuperscript{1515}

4.451 Mr Maclean’s suggestion was not implemented: secondary legislation was not enacted to include lymphatic and nervous tissue as SBO material. There had been an opportunity to implement his suggestion during the preparation of amendments to the SBO regulations later in 1990. During the preparation of these amendments in summer 1990, Mr Meldrum upheld the view that removal of lymphatic and nervous tissues should be the subject of guidance to local authorities. In a minute to Mr Griffiths of 28 August, he stated:

On lymphatic tissue I take the view that the major lymphatic tissues and nervous tissues removed should not be subject to the Staining and Sterilisation Regulations. Their disposal should be subject to guidance to local authorities.\textsuperscript{1516}

Discussion

4.452 The problems described by Mr Andrews at paragraph 4.450 were very real ones. The approach adopted to lymphatic tissue followed the ALARP principle. To have included lymphatic tissue in the categories of SBO would have been tantamount to banning the consumption of beef, for removal of all lymphoid tissue was impossible. A statutory requirement that ‘obvious lymphoid tissues’ be treated as SBO would have been too uncertain to be enforceable and would also have given rise to the difficulties identified by Mr Andrews. The guidance given by MAFF was probably as far as it was reasonably practicable to go without banning beef altogether.
4.453 With hindsight we note that the pathogenesis study has not shown the lymphatic tissue of cattle infected with BSE to be infective.

4.454 In a postscript to this discussion, MAFF issued further instructions to DVOs in March 1992. Animal Health Circular 92/34, dated March 1992, was distributed to all DVOs and Local Veterinary Inspectors and was stated to remain in force until 18 March 1994 unless replaced before that date. In relation to the cutting process for boneless beef it stated:

All boneless beef in the UK must comply with the requirements of Decision 90/261. In addition, the guidance below on harvesting of headmeat reflects the advice contained in the Agriculture Select Committee’s report on BSE and it is expected that this will shortly be given legislative force. The following action must therefore be taken at all domestic cutting premises in the UK, whether supplying the domestic or export market.

- All obvious lymphatic and nervous tissue that is exposed during normal cutting operations must be trimmed off, so that no such material is visible on the surfaces of the cut meat.
- Lymphatic and nervous tissue that is removed must not be used in meat preparations or products that are intended for human consumption.

[Guidance on the removal of head meat.]\(^{1517}\)

Intensification of public concerns about the safety of beef during 1990

Introduction

4.455 The rest of this chapter charts the intensification, during 1990, of the public concerns about the human health implications of BSE and the safety of beef. We cover the widespread speculation in the media and among scientists and members of the public in response to events that included the announcement in May 1990 that a cat had succumbed to a spongiform encephalopathy (SE). We look at the Government’s response to these events, particularly the public pronouncements made about the implications for human health and about the safety of British beef.

4.456 We start with reactions in early 1990 to the introduction in late 1989 of restrictions on the import of beef from the UK by the Government of the Federal Republic of Germany. The restrictions by Germany and reports claiming that US airforce bases, in the UK and across Europe, had banned British beef resulted in great public and media attention, and the UK Government and the MLC responded, offering reassurance by making public pronouncements about the safety of British beef.

4.457 We then move on to the reports in the press in February about the results from MAFF-funded research on the dietary transmission of BSE in mice, and MAFF’s
comments about the results. The pressure continued to build in April 1990 when
certain educational authorities banned British beef in schools. The Government was
faced with the alleged prospect of other bulk purchasers, such as prisons and the
NHS, threatening to follow suit.

4.458 It was against this background of mounting pressures and concerns about
BSE that the discovery of a cat with SE was reported in early May 1990. This news
led to intense media and public speculation about the transmissibility of BSE raising
concerns for both animal\textsuperscript{1518} and human health. We trace the story of the public
media and parliamentary reaction to the news, and how the Government responded
by making the most prominent public pronouncements about BSE to date. MAFF
and DH issued press releases notifying the public of the discovery and attempting
to quell growing consumer fears. The Meat and Livestock Commission (MLC) also
made public pronouncements around this time reassuring the public about the safety
of beef and reiterating the measures that the Government had already taken.

4.459 The news about the cat emerged not only against a background of general
public concern about the implications of BSE for human health, but also against a
background of practical problems associated with implementation of the SBO ban.
We have looked at these problems earlier in this chapter and mention them briefly
here to set the context in which the news about the cat emerged; we do not cover
these problems any further in this section.

4.460 As mentioned earlier in this chapter the House of Commons Agriculture
Committee undertook an Inquiry into BSE in mid-1990 and published its report in
July 1990. We have already described the evidence submitted to the Committee in
relation to brain removal and MRM. In this section we look at the evidence
submitted in relation to the safety of beef.

Public and international reaction to the BSE developments,
January – April 1990

Initial public concerns

4.461 Concerns about the actions of Germany in placing restrictions on British
beef, reported in the press in early 1990, prompted Government ministers and
others, including the MLC, to seek to reassure the British public about the safety of
beef.

4.462 On 9 January 1990, the Independent published a detailed and lengthy article
on BSE, and described the discovery of BSE and resulting Government action. The
article said:

But the Ministry has been slow to realise the seriousness of the situation and
even now has not brought in comprehensive measures to prevent the spread
of BSE.\textsuperscript{1519}

\textsuperscript{1518} For a full discussion on the implications for animal health generally see vol. 5: Animal Health, 1989–96
\textsuperscript{1519} YB90/1.09/12.1
The article discussed the action taken by Germany, the Netherlands and Denmark in banning the export of calves from BSE-affected mothers, and the US ban on all imports of cattle, embryos and bull semen from Britain.

Behind the European and American attitude lies the fear BSE in beef cattle may show up in humans. If the disease has moved from sheep to cows then there is a ‘remote possibility’ that it might also move from cows to people, say scientists at the Agriculture and Food Research Laboratories in Edinburgh who spent years studying scrapie.

It also noted:

The infective agent does not seem to be present in the muscle tissue which makes up most of the meat which humans eat.

‘Steak has very little nervous tissue in it, and so long as the lymph glands are stripped out it is very unlikely to pass on BSE,’ says Jim Hope, a veterinarian at the Agricultural and Food Research Council. Dr Hope is not at all worried about eating steak, but nothing would induce him to eat sweetbreads, spleen or brain from any animal, because he believes they are the parts most likely to be infected.

Mr Colin Maclean (Technical Director of the MLC) wrote to the Independent on 16 January 1990 in response to the article of 9 January and included the following statement on BSE:

Your report on BSE in cattle was a useful chronological list of the actions taken to understand the condition and mitigate any threat. It was, however, just inaccurate enough to give the reader an entirely biased view of both the Government’s speed and efficiency in dealing with it and of the risk it presents to humans.

There is no evidence that the disease is transmissible to humans. The Southwood report stated that ‘the chance of it being transmissible to humans is remote.’ This gives a very different slant on the risk from your statement ‘there is a remote possibility that it might move from cows to people.’

Creutzfeldt-Jakob Disease has been recorded in a lifelong vegetarian. There is no Scrapie or BSE in Australia but the incidence of CJD is the same as in the UK. The lesion sites in the brain of CJD and BSE are different. The responses in the immune globulins appear to be different in both conditions.

The oral dose of BSE or Scrapie-affected tissue to infect either sheep or cows, or even a mouse, is enormous. A human would have to eat an impossible amount of pure cow brain at the height of infection to reach an equivalent dose and even then there is no evidence that the disease would infect humans . . .

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1520 The MLC is required under the Agriculture Act 1967 to promote greater efficiency in the livestock industry and the livestock products industry while having regard to the interests of consumers in carrying out its functions. See also S147 Maclean para. 3
The letter concluded that it was ‘not sensible’ to criticise the Government for ‘openly basing their decision on scientific facts’ and that funding was continuing for research on the disease.\footnote{YB90/1.16/3.1}

In an article in \textit{The Times} on 17 January 1990 entitled ‘Gummer fights Bonn ban’ Mr John Gummer was reported as commenting that the Germans were taking action to keep British beef off the market despite having been told they were wrong by scientists. He was quoted as stating ‘It is a disease we want to get out of our herd but I am not worried about human health. It is quite clear to me our beef is safe.’\footnote{YB90/1.17/10.1} The \textit{Daily Telegraph} quoted Dr Wolfgang von Geldern as stating that West Germany was erring on the side of caution. He added:

Sheepmeat from countries affected by scrapie, an incurable brain disease of sheep, would have to be treated in the same way as beef from Britain where bovine spongiform encephalopathy has killed more than 9000 cattle.

The article went on to state that, on the basis of figures of the previous year, if other countries followed Germany’s suit British lamb producers could lose exports totalling £147 million throughout the EC and beef exporters could lose £217 million.\footnote{YB90/1.17/10.1}

On the same day, the \textit{Daily Telegraph}, in an article entitled ‘Mad cow row: the day of the showdown’, reported that Mr Meldrum was attending a meeting in Brussels with the task of persuading West German authorities and the EC commission that British beef was harmless. The article also reported that the incidence of BSE had doubled over the past six months and was affecting 400 cattle per week.\footnote{YB90/1.16/7.1} On the same day, an article in \textit{Today} newspaper entitled ‘Beef ban on Germany’ reported that Mr David Maclean ‘pledged there was no evidence that humans were at risk from “mad cow” disease’.\footnote{YB90/1.17/10.1}

The European Commission’s Standing Veterinary Committee met on 17 January 1990 and considered advice from its ScVC.\footnote{YB90/1.18/1.1}–\footnote{YB90/1.18/1.2 para. 2} The advice concluded that meat from countries in which BSE occurred was ‘not considered to be a danger to public health’.\footnote{YB90/1.17/10.1}

The German restrictions were discussed on 17 January 1990 in \textit{Today} newspaper, in an article entitled ‘I say bullocks to British beef.’

The Americans won’t eat it, the Germans want to ban it, but here in Britain those nice people who gave us salmonella and listeria say it’s perfectly safe. The Ministry of Agriculture treats us almost as badly as farmers treat their poor cows.\footnote{YB90/1.18/4.1}

On 19 January 1990, an article written by David Maclean and entitled ‘Don’t Beef about it Buying British isn’t Mad’ appeared in \textit{Today} newspaper.\footnote{YB90/1.19/4.1} Mr Maclean claimed that alleged American restrictions on the use of British beef in
US army bases had been introduced because the Americans wanted to reduce their beef surplus, rather than have their military bases in Europe buy local beef. He was quoted as stating: ‘I’m happy to eat British beef because I am convinced it is safe’.

4.473 Newspapers reported that Mr Gummer was seeking to take action against the German authorities in the European Court unless their ban was lifted. The Times, on 22 January 1990, in an article entitled “Mad cow” disease could have been avoided, reported that Mr Gummer would be in Brussels ‘to demand an end to the West German restrictions on British beef imports’. The article also described an interview with Mr Meldrum, who had ‘insisted that British beef was safe’.

‘I am totally content that what we are doing now is totally sound and is all that we need to do in order to remove any possibility of BSE exposure to man from cattle’ he [Mr Meldrum] said. However, he added: ‘I cannot say there is no risk to man from BSE. It is too early. We have only had this disease in this country for three years and the incubation period in man in cases of encephalopathies is very long indeed.’

4.474 The following day, the Daily Telegraph, in an article entitled ‘Gummer to seek beef ban ruling at Euro court’, reported that Mr Gummer had flown to Brussels in an effort to persuade other EC farm ministers that the German stance was unjustified. In relation to Mr Meldrum’s statement of the previous day, Mr Gummer was reported as stating that ‘no scientist will ever say never’. He also said that British beef was safe because of strict countermeasures taken by the Government to protect the public. He was quoted as adding:

My children eat beef, my wife eats beef and I eat beef. That is everybody’s absolute protection because I am going to protect them.

4.475 In late January, Mr Geoffrey John, Chairman of the MLC (1987–93), wrote to industry organisations attaching a briefing statement for all meat traders and a background paper on BSE. The covering letter stated that in light of the ‘overwhelming media attention this week’ the MLC were ‘happy to field any query’ that arose. The letter stated that the attached statement, drawn up in consultation with MAFF, had been mailed to all traders on their mailing list, who could in turn show it to any customer who needed reassurance. The statement explained that BSE was a brain disease affecting cattle and that CJD was a similar, but very rare, disease affecting humans. The statement went on to say that there was no evidence that animal encephalopathies were transmissible to human beings to cause CJD or any other disease and listed the following points:

(i) There is no link between Scrapie in sheep and CJD in people even though Scrapie has been known to exist for 200 years

(ii) CJD can affect lifelong vegetarians

(iii) CJD in humans exists at the same very low level in countries where there is no BSE or Scrapie.
4.476 The statement added:

Top British and European vets and scientists advising the European Community have studied the disease very carefully. They are agreed that everything necessary to protect public health is being done and they do not consider there is any danger to public health.

4.477 In early February 1990 the issue of BSE entering the human food chain was discussed within DH in the context of the Food Safety Bill. In response to concerns about BSE getting into the food chain, Dr Hilary Pickles informed Dr Christine Swinson: ‘I do agree with MAFF that further legal measures should not be adopted.’ The ‘reason for this is not that they would be difficult, but because there is no need or justification’. She concluded:

We have recently had an opportunity to discuss internally and with both PS(H) and Mr Maclean the present position and see no reason to alter our current policies. Indeed in this area we feel MAFF might be considered to have gone rather too far already.1534

4.478 On 1 March 1990, Today newspaper published an article titled ‘We’d be madder than the cows to believe this bull’.1535 It reported on a programme on ITV, ‘World in Action’, which had ‘made mincemeat out of the Government reassurances about the safety of British beef’. Professor Richard Lacey was mentioned in the article. Professor Lacey was a Professor of Clinical Microbiology and a consultant to the World Health Organisation.1536 In October 1989 he had been interviewed by Country Living magazine, and had said: ‘Either BSE is of no importance because it cannot spread to man, or it is the greatest of all the food-borne dangers and may kill five per cent of the population within a generation.’1537

4.479 The Today article said:

Germans won’t eat it and it has been banned from the US bases. More importantly, scientists and doctors in the know won’t eat it either.

Dr Richard Lacey is one of them and frankly, if British beef isn’t good enough for the man who alerted us to the dangers of salmonella and listeria, then it shouldn’t be good enough for us.

Dr Lacey’s depressing prognosis was that if what he suspects is true, in years to come our hospitals will be filled with thousands of people going slowly and painfully mad before dying.1538

BSE orally transmitted to mice

4.480 The publication on 3 February 1990 of results on the transmission of BSE orally to mice and by inoculation to cattle is described in the overview at the

1534 YB90/2.3/1.1
1535 YB90/3.01/14.1
1536 Professor Lacey also advised the Ministry of Agriculture (as a member of the Veterinary Products Committee) on matters concerning the use of drugs in animals, birds and fish between 1986 and the end of 1989: S10 Lacey para. 3
1537 YB89/10.00/1.1–1.4
1538 YB90/3.01/14.1
beginning of this chapter. Two days earlier MAFF had announced these results, and their imminent publication in the *Veterinary Record*, by means of a press release and a scientific press briefing session at which Professor Barlow and Mr Meldrum were present.

**4.481** The MAFF press release on 1 February presented the results as preliminary and in the context of the ongoing BSE research programme. It continued:

> These results demonstrate that the disease can be transmitted using unnatural methods of infection, which can only be done experimentally in laboratory conditions and which would never happen in the field. Similar results were obtained some years ago in relation to experimental transmission studies of sheep scrapie to sheep and to mice. The BSE results therefore provide further evidence that BSE behaves like scrapie, a disease which has been in the sheep population for over two centuries without any evidence whatsoever of being a risk to human health.\(^{1539}\)

**4.482** Press reports over the next few days tended to focus on the results on dietary transmission to mice. On 1 February, the same day as MAFF’s press release, the *Daily Telegraph* ran an article entitled ‘Mad cow disease passed to mice’. The article alleged that MAFF had delayed publication of the results of the dietary transmission studies:

> A row has broken out in the Ministry of Agriculture over a scientific report which establishes that mice can catch mad cow disease by eating brain tissue from infected cattle. It funded the research as part of an effort to discover the degree of risk people face.

> The ministry has blocked the release of the findings until they are published in the *Veterinary Record*, journal of the British Veterinary Association, on Saturday.

> The report’s author, Prof Richard Barlow of the Royal Veterinary College, said yesterday ‘As far as people are concerned the findings have no significance.’

> Ministers and officials, who are striving to convince the public that British beef is safe to eat, were said to be ‘very upset’ that some details of the report have already been discussed with a few journalists.

> . . .

> The ministry said last night ‘We didn’t want the findings reported in bits and pieces.’\(^{1540}\)

**4.483** MAFF officials were aware of Professor Barlow’s results in early November 1989. Mr Lawrence reported on these and CVL’s results to Mr David Maclean on 8 November 1989 and set out the arrangements for reporting the results to the public.
The Parliamentary Secretary will be aware that preliminary results of transmission studies conducted at the Central Veterinary Laboratory have shown that BSE can, under experimental conditions, be transmitted to cattle (Dr Watson’s minute of 21 September refers.)

The Royal Veterinary College has been conducting studies to see if BSE can be transmitted to mice through the oral route, i.e. by feeding brain material from a confirmed BSE case to mice. Results now show that transmission does take place by this means.

Clearly, we want to avoid any scare stories emerging when the results of the studies are published. We also need to avoid a misinterpretation of the results, i.e. that cattle to cattle transmission does take place in field conditions. Thus, when the time comes, it will be important to emphasise that these studies are experimental – i.e. injecting brain material from a cow with confirmed BSE by unnatural intravenous and intra-cerebral routes providing a very large challenge – and that the results are not at all unexpected. Also that it is quite different from the large study going on using offspring of affected dams which is designed to determine whether or not dam to offspring transmission can take place under field conditions and if so at what incidence.

We believe it is essential that the results of the CVL cattle transmission and the RVC mouse oral transmission are reported together.

We will have advance warning of publication date from the Veterinary Record (Dr Watson is in close touch with the Editor). Full Q & A briefing is enclosed for use by Ministers and Press Branch. It is also intended to issue a short press statement on the lines of the draft attached.1541

4.484 The arrangements for reporting the results of these two transmission experiments were developed further in late January 1990. Mr Meldrum put forward a submission to Mr Maclean on 26 January advising him that the results would be published in the Veterinary Record on 2 February, and enclosing a draft press release and Q&A briefing for use by Ministers and Press Branch. In addition he recommended a scientific press briefing on 1 February ‘so that we can emphasise the experimental nature of these studies and that the results are not unexpected’.1542

4.485 On 30 January Mr Andrews requested a redraft of Mr Meldrum’s press release with the aim of setting the results in the context of the programme of research on BSE and emphasising that the results were produced following unnatural methods of infection. He also suggested that the press release could:

... bring out the similarity between BSE and scrapie more. It could say that the results of these experiments add to the evidence that we are dealing with a disease similar to scrapie, and restate the fact that there was no evidence that scrapie is transmissible to humans.1543

1541 YB89/11.08/12.1 (Dr Watson’s minute to Mr Maclean reported in this quote is at YB89/9.21/11.1–11.9)
1542 YB90/1.26/14.2
1543 YB90/1.30/5.1
4.486 Mr Andrews’s suggestions were approved and the revised press release was approved by Mr Gummer, with some minor adjustments, the following day.1544

4.487 On 2 February several national newspapers reported on the dietary transmission in mice as demonstrating that BSE could spread to other animals through eating infected food. The Daily Star, in an article entitled ‘Mad Cow Threat to Humans’, reported:

The shock admission came as lab mice picked up the horror disease after being fed contaminated beef. Until now it has been passed only by injection.1545

4.488 It was claimed in the article that Government officials had admitted that ‘mad cow disease’ could be passed on to humans.

4.489 The Times in an article entitled ‘Cow disease “can spread to other animals” ’ reported that the results of the experiments left a question over the possible risk to people from BSE-infected material entering the food chain.1546 The Daily Telegraph, in an article entitled ‘First proof of mad cow disease in mice’, reported:

It was the first proof that the disease, bovine spongiform encephalopathy, for which there is no cure, can strike down another species through eating infected food but top Government vets immediately said the results presented no new health risk to the public from eating beef.1547

4.490 Similar articles were published in the Independent and the Financial Times.1548 The Daily Express in an article entitled ‘Mad cow clash’, reported that fears that ‘mad cow’ disease could spread to humans had been dismissed by MAFF. The article went on to report that Dr Helen Grant, a retired neuropathologist, had appeared on television the previous evening (1 February 1990) and predicted that humans could be hit within 20 years. The article also reported Dr Grant as saying that infected cattle offal was still being used in pies and meat products.1549 The Guardian, in an article entitled ‘Mice fed “mad cow” brains developed fatal disease’, reported Mr Meldrum as saying that the discovery was ‘an entirely expected result’ which confirmed similar experiments conducted nearly 30 years before. Dr Helen Grant was also quoted as stating:

My gut feeling is that some genetically susceptible people may have become infected with material by eating meat products.1550

Education authorities take beef off school menus

4.491 On 11 April 1990, Humberside County Council wrote to MAFF asking for advice on actions that could be taken to prevent any meat contaminated by BSE from being used in school kitchens.1551 Mr John Maslin replied on the same day, seeking to reassure the County Council that British beef was safe.1552 He claimed
that 'the consumer has been protected from even the remote and theoretical risk that BSE might have had implications for human health'.

4.492 However, on 26 April 1990, Mr Lowson minuted Mr Maclean stating that, despite MAFF’s response, Humberside County Council had already taken action and had announced this to the press. In addition, he stated that the press had reported that Lancashire County Council had also expressed concerns but that the Department of Education and Science (DES) had no strong views as to whether MAFF should write to all local education authorities to reassure them. He stated:

I do not think there is much of a case for doing so, as a letter arriving out of the blue might be as likely to stimulate fears as calm them.

4.493 On the question whether ‘other bulk purchasing authorities’ (such as the armed forces and prisons) might follow suit, Mr Lowson said he was sure that they would ‘approach us first if they were contemplating a change of policy’. Following Dr Pickles’s receipt of this minute, DH officials became particularly concerned that health authorities might consider banning British beef in hospitals.

4.494 On 30 April 1990 representatives from MAFF, MLC and NFU met with Humberside County Council. The minutes of the meeting, prepared by Mr Maslin and copied to Dr Pickles among others, recorded that Mr Meldrum, speaking with the full endorsement of DH and Ministers, had pointed out the ‘stringent precautionary measures’ the Government had taken to protect public health from the remote risk of BSE. Mr Colin Maclean (MLC) was reported to have ‘described the role of the MLC had in protecting consumer interests and how the MLC had looked carefully at the implications of BSE and concluded that the Government had taken all appropriate action’. Mr Ben Gill (Chairman, Livestock Committee, NFU) asked the Council to reconsider their ‘unsound decision’ which he considered would frighten people unnecessarily at a time when public perception of BSE had been influenced by inaccurate and sensationalised press reports.

4.495 One of the issues raised at the meeting was Professor Lacey’s views about BSE. Mr Meldrum explained that, to his knowledge, Professor Lacey had not worked on SEs or discussed the problem with experts in the field. The Council officials at the meeting also queried why CJD was to be monitored in relation to BSE if there was no problem. Mr Meldrum stated this was in response to the Southwood and Tyrrell Reports. Professor Lacey told us that he had not had any contact with Humberside Council at the time they introduced their ban, although he had subsequent contact with them. Professor Lacey’s views, however, had been published in the media (for example see paragraphs 4.478–4.479).
Mention was made of a letter received by the Council from a neurologist in London stating that brain was spread over carcasses and that this posed a risk. Mr Meldrum explained that animals going for slaughter were healthy, most were inspected ante-mortem and the risk of contamination was insignificant.1562

The Chairman of the County Council said he would consider the points made by officials from MAFF but he noted that ‘they had been expressed in terms of remote risk and “no evidence” and that no guarantees of safety could be given’.1563

May 1990: Spongiform Encephalopathy in a cat1564

The discovery

On 8 May 1990, Mr Gerald Wells, Head of Neuropathology Section, CVL,1565 minuted Mr Raymond Bradley (BSE Research Coordinator, CVL), Mr Wilesmith and others at CVL reporting a ‘scrapie-like spongiform encephalomyelopathy’ in a 5-year-old male domestic cat.1566 He reported that the cat had been referred to the University of Bristol School of Veterinary Science. Mr Wells had visited the laboratory and examined the histological sections of the cat. He noted in his minute:

The pathomorphology in this case leaves little doubt regarding the nature of disease but in view of the far reaching consequences of the diagnosis additional work is required before it can be confirmed as a member of the transmissible spongiform encephalopathy group.1567

MAFF and DH response

The following day, Mr Robert Lowson of the Animal Health Division minuted Mr Gummer with copies to, Mr Gueterbock, Mr Capstick, Mr Meldrum, Mrs Attridge, Mr Lawrence, Mr Bradley, Mr Wells, Mr Wilesmith and Dr Pickles. The minute was also copied to the Agricultural Departments in Wales, Scotland and Northern Ireland.1568 The minute noted CVL confirmation that a cat had died after suffering from SE, and continued:

2. Although this is the first firm recorded instance of a cat being infected by apparently natural means, it is not particularly surprising; it has been known for some time that cats are susceptible to CJD by experimental inoculation, and greater public awareness may have meant that cases that previously went unnoticed will now be suspected based on clinical symptoms. Nevertheless once this information becomes public (as is inevitable) it is bound to excite comment and a connection will be made with BSE, scrapie and possibly even with CJD.
3. After discussion with Mr Simon Dugdale (Chief Information Officer, MAFF) we recommend that, rather than wait for the story to emerge, we should take the initiative in releasing the information. This would be done by means of a letter to the Veterinary Record, but as the first issue in which it could be published would be that on Friday week, 18 May, it would be better to release the text in advance. If ministers agree, this release could be accompanied by a press briefing by officials, possibly on Friday of this week.

4. . . . We [MAFF] will . . . concert our approach with DOH and the British Veterinary Association, and recommend that they should both participate in the Press Briefing . . .

5. . . . Detailed further enquiries will be needed; it is not certain that this is a transmissible spongiform encephalopathy. More needs to be known about the circumstances in which this animal might have been infected; although it is most unlikely that further enquiries will lead to any firm conclusions.

6. . . . Clearly this case will bring into sharp relief all the various issues that have been troubling the media for some time . . . Above all it will be important not to encourage the public to jump to conclusions about the likely origin of this case . . .

4.500 On the same day, Dr Pickles minuted Mr Stephen Dorrell, DH Parliamentary Under-Secretary, about the cat, with copies sent to Sir Donald Acheson and Dr Metters. She stated:

Although there are previous instances of experimental infection in cats, there have been no previous natural infection reported. The assumption must be the cat became infected by scrapie/BSE agent in its food . . .

First thoughts are that this new information does not affect our views on the lack of hazard of BSE to man. Although humans are in close contact with cats, these disorders are not spread by intimate contact. However, the implications of this must be considered by the full Tyrrell Committee.

Concerns for MAFF include:

BSE has spread to yet another species: how many more?

Whether it should still be permissible to include offal in pet food.

Renewed pressure to ban the feeding of processed sheep and cow offal to pigs and poultry.

Could there be spread between cats or to other species from cats?

MAFF have informed the Pet Food Manufacturers Association and the British Veterinary Association. Details of the case will be published next week. They plan a low key press statement in the next day or two in
anticipation of the news breaking. We are in close contact with MAFF and are asking them to discuss this urgently with our outside joint experts. 1571

4.501 On 10 May 1990, Dr Pickles minuted Dr Jeremy Metters, Deputy CMO, and the CMO with further information about the cat. Dr Pickles offered two alternative explanations for the cat’s infection: 1572

... Previously there have been no natural cases of spongiform encephalopathies described in cats. Experimenters have succeeded in transmitting – although infrequently – CJD by intracerebral inoculation to cats, but have not succeeded with scrapie. The Bristol Veterinary School are particularly interested in spongiform encephalopathies and may have picked up lesions that would have been missed by others. It is quite likely that previous cases in cats – particularly if the clinical presentation found with this case is typical – would have been missed.

The implications have to be considered at leisure by the new Tyrrell Committee. Dr Tyrrell is on holiday but the others are being informed on the phone. Assuming further investigation does not question the diagnosis or reveal unusual routes by which this cat could have been infected, there are two main possibilities. Firstly, that cats have been susceptible to ingestion of infected meat for years and cases previously have gone unrecognised. Secondly, a new agent, presumably BSE, is virulent in a way in which previous agents such as scrapie have not been. The second possibility is most unlikely, but more worrying since it challenges the assumptions we have made for humans by analogy with scrapie...

The potential hazard for humans from cats can be assessed on the assumption feline spongiform encephalopathy behaves like others in the family, in particular in the way the infective agent is distributed. Parenteral exposure to ‘risk’ (ie lymphoid/nervous) tissue are the main concern. MCA confirm no feline ingredients go into pharmaceuticals. PD confirm the same for devices. That leaves accidental exposure in an occupational setting which is being referred to the HSE. Veterinarians are being informed by the BVA. Neurophysiologists and others that experiment on cats, could need some advice. In a domestic setting there does not seem any problem, although bites and scratches may need further consideration. Some people are said (at least by the tabloid press) to eat cat food. If we follow the Southwood line, even if this contains agent in ‘risk’ tissues now banned for human consumption, the hazard is negligible.

... the public may start asking again about pig and poultry feed. We must be fully involved in discussions, particularly as some essential pharmaceuticals are made in pigs. The press, on being reassured catgut does not come from cats, could question where it does come from; perhaps [company name deleted] should be warned.
MAFF meeting on the cat

4.502 On 10 May 1990, Mr Gummer met Mr David Maclean, Mr Meldrum, Mr Lowson and others to discuss how to make public the information that a cat had been diagnosed with SE. A note of the meeting prepared by Mr Gummer’s Principal Private Secretary Mr A J Lebrecht, and copied to Mr Bradley and Mr Wells, among others, records:

[The CVO] confirmed the Minister’s assumption that there was no likely connection between this case and BSE. Nor was the illness necessarily linked with the cat’s diet. We knew that cats could be infected by the injection of high doses of CJD virus, but it had not been possible to inject them with the scrapie virus. No experiments had been done on cats using BSE virus. This was the first discovered case of a spongiform encephalopathy in a domestic cat although there had been a case involving tigers in the 1970s where it was alleged the animals had an encephalopathy. As regards the present case, the cat had fed on a wide range of pet foods including cooked fresh meat bought from a local shop. The Minister concluded from this that, if it weren’t for the general public interest in encephalopathies, the death of this cat would not be a matter of significance. However, given the public interest, it was desirable to make the information available as soon as possible.

After a brief discussion, it was agreed that the letter to the veterinary record giving information about the case would be issued as a press notice that day.

4.503 There is a conflict of evidence as to whether the note is an accurate reflection of what transpired at the meeting. We return to this in the discussion section of this chapter.

4.504 This meeting is also discussed in vol. 5: Animal Health, 1989–96, as the discovery of SE in a cat had implications for animal health.

The MAFF press release and Mr Meldrum’s press briefing

4.505 After the meeting on 10 May 1990, MAFF issued a news release entitled ‘Spongiform Encephalopathy in a Cat’. This stated:

Pathologists at the Bristol Veterinary School and MAFF’s Central Veterinary Laboratory at Weybridge have diagnosed a sub-acute spongiform encephalopathy in a five-year-old Siamese Cat originating from the Bristol Area.

Keith Meldrum the Ministry’s Chief Veterinary Officer has written to the ‘Veterinary Record.’ A copy of his letter is attached.

4.506 The attached letter outlined the facts of the discovery and the symptoms noted in the cat. In the letter Mr Meldrum stated:

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1573 YB90/5.10/7.1
1574 YB90/5.10/7.1
1575 YB90/5.102.1–2.2
Such findings have not been reported previously in domestic cats.

Inquiries into the case will continue, but there is no evidence that the condition is transmissible nor is there any known connection with other animal encephalopathies. 1576

4.507 Mr Meldrum also conducted a press briefing on 10 May 1990. A ‘speaking note’ had been prepared for Mr Meldrum on the cat, which he stated was used as the basis for the briefing. 1577 It included statements that:

Inquiries into the case will continue, but at this time there is no reason to associate this case with any other animal encephalopathy that occurs in Great Britain. Transmission studies with material from this cat will commence as soon as possible but results are unlikely to be available for at least a year.

The case is not entirely surprising, bearing in mind that some cats have been found to be susceptible to some encephalopathies under challenging laboratory conditions and that there is a heightened awareness of the animal encephalopathies in the UK at this time and therefore laboratory examination of material will now be undertaken that would not have been undertaken previously.

This case should be seen for what it is. A single case of a spongiform in a population of some 7 million cats. There is no evidence that the condition is transmissible and there is no known connection with the other transmissible animal encephalopathies. Detailed investigations will continue and the results will be published in due course. 1578

Media reaction to the news about the cat

4.508 The MAFF news release and Mr Meldrum’s briefing sparked off great media interest. Later that evening, ITN’s ‘News at Ten’ broadcast a report which included both an introduction by its newsreader and a news clip:

Julia Somerville: Experts at the Ministry of Agriculture are trying to find out if there is a link between the illness of a pet cat and the Mad Cow disease, BSE.

Mr Keith Meldrum: This is only one cat death out of seven million cats in the UK, and there is no reason or cause for concern at all. If we hadn’t got the other encephalopathies in animals in this country, this report would have been published without comment. 1579

4.509 The news clip of Mr Meldrum was also shown on the news on BBC1 at 6pm.

4.510 On 11 May 1990 several newspapers reported the story. An article in the Daily Mirror, entitled ‘Mad cow threat to cats: Killer bug scare’, claimed that ‘millions of pet cats could be in danger following the discovery of the first case of

1576 YB90/5.10/2.1
1577 S184E Meldrum para. J1
1578 YB90/5.11/10.4
1579 YB90/5.10/14.1
“mad moggy disease”’.\textsuperscript{1580} The article stated that worried Labour agriculture spokesman Dr David Clark had attacked the Government in the Commons for not doing enough to combat the ‘plague’. He was quoted as stating that the discovery was a ‘major new dimension’ and that ‘every pet owner in the country will be deeply alarmed’.

\textbf{4.511} Mr Meldrum, in an article in \textit{The Times} entitled ‘Mad cow symptoms found in pet cat’, was quoted as stating:

There is no need for pet owners to change their pet food or to consider putting their cats down. The risk to man is no greater than it was before the diagnosis.

\textbf{4.512} He was later quoted in the article on the finding that the post-mortem examination of the cat found ‘typical lesions of Spongiform Encephalopathy’.

‘Such findings have not been reported previously in domestic cats at this stage, this is the only known case in the seven million cats in Britain.’\textsuperscript{1581}

\textbf{4.513} The \textit{Daily Telegraph} published an article titled ‘Mad cow disease check as cat dies’.\textsuperscript{1582} This reported Mr Meldrum ‘stressed that there is no danger to owners of cats and said that there is no known dog encephalopathy’. The article also reported:

‘This case is not entirely surprising,’ said Mr Meldrum. He pointed out that cats in ‘challenging laboratory conditions’ have succumbed to an encephalopathy, although researchers had not been able to transmit the sheep disease scrapie to them.\textsuperscript{1583}

\textbf{4.514} The \textit{Guardian}, in an article entitled ‘Cat had “mad cow” disorder’, reported that veterinary experts said it was ‘purely speculative’ to link the cat’s disorder to BSE. The article concentrated on the implications in relation to pet food but reported Mr Meldrum saying that the case had ‘not changed the Government’s assessment of the possible risk to humans from BSE’.\textsuperscript{1584}

\textbf{4.515} The \textit{Financial Times} published an article entitled ‘Scientists confirm first case of “mad cat disease”’.\textsuperscript{1585} This reported Mr Meldrum as saying that farmed mink had also transmitted the disease by biting each other in cages. The article concluded by stating:

The Government continues to insist that health risks to humans are remote, but in January it announced a new £12 million research programme into the disease. The West Germans are still refusing to import any British beef unless it is de-boned and the European Commission has imposed an export ban in all live British cattle over six months old.

\textbf{4.516} The \textit{Daily Express}, in an article titled ‘Pet food probe in “mad cat” mystery: Cow bug could be the culprit’, reported that an investigation had been ordered to
find out whether pet food caused the death of a cat. The article added that concern had been growing about the possibility that mad cow disease could pass to humans which was why the Germans and Russians had imposed a ban on British beef.

4.517 The Sun printed an article called ‘10 Reasons why we should treat Mad Cow like Black Death’. The article stated that ‘mad cow’ disease could be the biggest threat to humans since the Black Death plague and claimed that news of cats dying of the disease was evidence to show that humans were also at risk. The article said that by setting up a research programme the Government was acknowledging that there could be a risk.

Mr Wells

4.518 Mr Wells drafted a minute to Mr Bradley on 11 May 1990 commenting on the way that the finding of SE in the cat had been ‘trivialised’ in representations to the media. His minute read:

SCRAPIE-LIKE ENCEPHALOPATHY IN A SIAMESE CAT

The comments made by the CVO on BBC1 News at Six, 10 May 1990, on this subject were unfortunate, inappropriate and provocative.

The current situation requires a guarded public statement. The findings are preliminary but have potential agreed importance and should not, from virtually all viewpoints, have been represented as inconsequential.

Even at this early stage of the investigation the indications are: that this is unlikely to be an isolated incident; that the cat is susceptible to a scrapie-like disease by a route other than the intracerebral; that the origin of infection is likely to be cattle or sheep and that the possible vehicles of implications include products of the rendering industry, prepared pet food and fresh meat trades. The temporal occurrence of this incident is also consistent with possible exposure to scrapie or BSE agents during the period of recycling of carcasses of clinically affected cattle in addition to the continuance recycling of sheep material.

Reassurance regarding this incident from both the CVO and the BVA in the media is at present an over optimistic response which may well, in a very short time, result in a loss of credibility for the veterinary profession in this whole sensitive subject area.

Furthermore the trivialization of the occurrence in the public statement made has incensed the research workers in the Departments of Veterinary Pathology and Veterinary Medicine, the University of Bristol Veterinary School whose professionalism, foresight and co-operation in informing MAFF in confidence, of their findings provided a valuable forewarning which less sympathetic individuals and organisations may well have relished circumventing. This has potentially comprised further collaboration on the present material and subsequent communication of the subject.
In the interests of all concerned please could you advise the CVO appropriately. 1588

4.519 This minute was not sent. The matter is discussed further in the discussion section of this chapter.

‘Leading food scientist calls for slaughter of 6 million cows’

4.520 Professor Richard Lacey gave a telephone interview to a Mr Andrew Neil, who was rehearsing as a radio presenter. Professor Lacey did not realise his interviewer was editor of the *Sunday Times*. They talked about food matters in general, including BSE. 1589

4.521 On 13 May 1990, the *Sunday Times* carried the front-page headline ‘Leading food scientist calls for slaughter of 6m cows’. The article included the following:

Professor Richard Lacey, a former government health adviser, said people should not eat beef until half the herds in Britain, each of which had at least one infected cow, had been destroyed and beef had been proved safe to eat again.

4.522 The article then noted that government scientists described Professor Lacey’s comments as ‘alarmist’. Professor Lacey was then quoted as saying:

‘We need authoritative advice from medical doctors instead of all those ministers, vets and civil servants who are telling us that everything is safe,’ he said. ‘We now have two new mammals – cattle and cats – infected naturally for the first time by this agent. The likelihood is increased of the possibility of transmission to man from cattle.’

Mr Meldrum was reported in the article as accusing Professor Lacey of ‘pure supposition, over-reaction and scare-mongering.’ He was quoted as saying:

‘To suggest that the discovery of a spongiform encephalopathy in a cat increases the risk to man is absolute nonsense.’

‘The basis on which we are saying that beef is safe is that the agent of scrapie has not been detected in the muscle of sheep affected with scrapie.’ 1590

4.523 David Maclean, the Minister for Food Safety, said that Professor Lacey was ‘good at popping up in the media with scare stories’.

‘Even the most elementary scientist knows that this disease cannot be passed from cow to cow like an infection . . .’ 1591

4.524 On the same day the *Mail*, in an article entitled ‘Slaughter cows, says scientist’, repeated Professor Lacey’s warning on the risks of eating beef and the increased likelihood of transmission of BSE to man. 1592
4.525 The Sunday Times carried a story entitled ‘Mad cow fears slice British beef off the menu: Schools ban home-grown meat as image of the cow takes a basting’.\(^{1593}\) This reported that Pocklington Woldgate School in Humberside, despite being located in ‘one of the nation’s proudest farming regions’, had banned British beef from its school menu because of BSE. It was also stated that Humberside County Council was the first authority to ban British beef from all its 470 schools after deciding that African meat was safer than that farmed by some of the local parents. The report continued that:

The fears, voiced by a small group of outspoken scientists, were reinforced last week when it was disclosed that a domestic cat in Bristol had been found with a disease showing many of the signs of BSE including sponge-like holes in the brain.

...\(^{1593}\)

Yet the Ministry of Agriculture has insisted that beef is perfectly safe, although it now admits its advice is based on the available evidence and that there is no scientific proof. Each time a new health risk has been identified from BSE the ministry has first said that it was not a risk; then admitted it could be a risk; and then introduced new safety rules to curb the risk.

4.526 The article also quoted Dr Helen Grant as saying:

Since scrapie has already been transmitted to so many animals and now, apparently, to cattle and cats, why should it not be transferred to *Homo sapiens*?\(^{1594}\)

4.527 On 14 May 1990 the *Daily Mail* included an article entitled ‘Crisis over British Beef’ which reported that fears about BSE had reached the Soviet Union, which had banned a shipment of Angus beef.\(^{1595}\) The beef was due to be served to VIPs, including the Princess Royal, the Prime Minister (Mrs Thatcher) and President Gorbachev at a trade banquet in Kiev. The article added:

The Soviet move is an indication of how seriously the situation is being taken. Three quarters of a ton of Angus beef was to have been cooked for the banquet during British Month in Kiev – now it may be replaced by Argentine meat.

4.528 The article also reported Mr David Maclean as saying that the Russians had reacted without knowing the facts and that he would explain the situation to a Soviet delegation. He was reported as being ‘confident that British beef would be back on the menu at Kiev’.

4.529 The public concern about BSE and beef continued on 15 May 1990, and *Today* newspaper printed an article entitled ‘Beef sales plummet as boycott spreads: Confusion for shoppers’.\(^{1596}\) It was reported that a beef boycott by families worried about the risk from mad cow disease had cost farmers £120 million and the meat industry had launched a £1 million campaign to reassure panicking shoppers.
4.530 On the same day Mr Gummer wrote to Lady Wilcox, the Chairperson of the National Consumer Council, with advice for consumers on the safety of beef. (This letter was later published as a press release; details of the letter are given further in paragraph 4.559.)

4.531 Lady Wilcox responded with a letter dated the same day stating that she was sending the ‘advice’ to those member organisations of Consumer Congress with an involvement and interest in food safety and consumer advice. She added:

We appreciate, however, that because of the long incubation period of the disease, the results of all the relevant research cannot be expected for some time; therefore the evidence is incomplete.

We expect your Ministry to take all steps which are considered necessary to protect human health. This may mean further action.

4.532 Press reports on 14 May 1990 had suggested that many education officers were considering taking British beef off school menus because they were unsatisfied with answers to their questions about its safety. Today newspaper, in an article entitled ‘Schools mad cow ban spread’, reported that head teachers around the country were considering banning British beef. Humberside County Council, which had ordered beef off the menu at 470 schools, was to be joined by Birmingham and Lancashire County Councils. The Sun, in an article called ‘Farmers’ fury as schools ban beef’ reported that the news had been ill received by members of the NFU in Humberside. The Times, in an article titled ‘Professor renews call for beef ban’, reported Professor Lacey as being ‘unrepentant’ and repeating that people should not eat beef until 6 million cattle were slaughtered.

4.533 The story received considerable press attention over the following days. On 15 May 1990 the Daily Star printed an article called ‘Gravest warning for kids on Mad Cow Disease: Should beef be off the menu’. The article advised mothers to stop feeding their children beef and quoted Professor Lacey as saying that it was unwise to give beef to youngsters until the threat of BSE had been beaten.

4.534 The Guardian newspaper reported that several authorities had followed Humberside County Council in imposing a complete or partial ban on the serving of beef and beef products in schools. It was reported that Staffordshire Council was proposing to ban beef sausages, beef-burgers and mince, but would allow cuts from joints to remain on the menu, while Liverpool City Council had banned all beef (UK and foreign) and said it was considering a ban on lamb because of concern about infection from scrapie. Richmond-upon-Thames Council, it was reported, had withdrawn beef from primary and junior schools but not from secondary or tertiary schools.

4.535 An article in Today, called ‘MAD COW MINISTERS EXPOSED: New Evidence, but they duck and dive the vital questions’, reported that a ‘top EEC
A scientist is convinced the outbreak, which has cut meat consumption by six per cent, was caused by undercooking cattle food containing offal’. The article stated:

Key ministers last night waved aside the damning new evidence and shrugged off the mounting concern. They ducked and dived when confronted with questions over the growing scandal.

At the Education Department, a spokesman said: ‘If local authorities want advice they have to ask the Ministry of Agriculture and the Department of Health.’

The Ministry of Agriculture said: ‘It is a matter for the Ministry of Health.’

And the Health Department said: ‘We are not issuing any advice of any sort. If a warning was necessary, it should come from the Ministry of Agriculture.’ One angry health administrator complained about the lack of guidance to hospitals.

‘We are completely in the dark. We have not heard a bloody word from anybody one way or another.’

4.536 On 16 May 1990 an article in Today newspaper, called ‘Mad cow Ministers stick to sausages’, featured a photograph of David Maclean holding a sausage and reported him as declaring that ‘British beef is safe’.

**Meat and Livestock Commission (MLC) press release**

4.537 The intense media response to the MAFF press release about the cat prompted the MLC to issue a press release on 14 May 1990. This was entitled ‘BSE SCARE “OVERBLOWN” SAYS MLC SCIENTIST’ and stated:

> British consumers are in danger of being unnecessarily alarmed by inaccurate and misleading news items surrounding bovine spongiform encephalopathy (BSE) – commonly referred to as ‘mad cow disease’.

4.538 The press release went on to quote Mr Colin Maclean (Technical Director of the MLC) as saying:

> ‘All the scientific evidence – as opposed to rumour, conjecture and guess – provided by leading veterinary surgeons and scientists in the UK and the rest of the EEC has indicated that UK beef is perfectly safe to eat.

> ‘Even if no further action had been taken following the outbreak of the disease there was considered to be no risk to consumers from eating beef.

> ‘But the UK Agricultural Departments have gone well beyond this and instituted a set of precautions that should have removed any remaining doubts. Consumers can eat beef with confidence.'
‘They have made the disease notifiable. They have bought in a slaughter and compensation ruling which removes the diseased animals long before they have a chance to get into the food chain. They have introduced legislation requiring all potentially suspect material from other cattle, such as brains, spinal cord, thymus and spleen, to be removed from the food chain at slaughter.

Any one of these moves should have been enough to remove any fears. Taken together they add up to a virtually impregnable barrier to further transmission.’

4.539 The press release discussed the finding of the SE in the cat and continued to quote Mr Colin Maclean:

‘Now that scientists know about these diseases it is only to be expected they will find them in an increasing number of animals and probably in an increasing number of countries . . . That does not mean it is being spread from species to species.’

. . .

He concluded: ‘I regard the current wave of alarmist stories and overblown claims by certain individuals about BSE as grossly irresponsible and totally misleading. Consumers can be assured that beef is perfectly safe.’

4.540 Mr Colin Maclean commented in his oral evidence to us:

This particular press release coming out immediately after the announcement of a TSE in a cat; and the press was – well, I can only describe it as went berserk and the stories were extreme and alarmist. Therefore it is perfectly true to say we needed to do something and something immediately. This press release is in response immediately to that.

This press release is considered in the discussion section of this chapter.

Public pronouncements on the safety of beef by Government Ministers and officials

Events on 15 May, leading up to the press release by MAFF

4.541 On 15 May, DH circulated a statement about the safety of eating beef to health authorities and local authorities. MAFF issued three press notices. The evidence is unclear as to the extent of the consultation and agreement between the Departments over the terms of these documents.
DH circular to health authorities and local authorities

4.542 Sir Donald Acheson, CMO, told us that press coverage following MAFF’s press release on the cat resulted in ‘a rapidly escalating panic’ and by 15 May both MAFF and DH responded by issuing public statements.\(^\text{1609}\)

4.543 In a minute to Mr Dorrell, Dr Pickles attached a draft Parliamentary Question and said that Dr Tyrrell was content with the proposed line. (Dr Tyrrell was on holiday, and had been consulted by telephone.)\(^\text{1610}\) The draft read:

The new committee (SEAC) has recently reviewed new information about BSE and current control measures and concurred with the opinions given in the Report of the Southwood Committee that the possibility of a hazard to humans remains remote. There is therefore no scientific justification for the action by Humberside County Council and British beef can be eaten by both adults and children with confidence.\(^\text{1611}\)

4.544 Dr Pickles noted that Dr Tyrrell would be meeting the CMO the following day to discuss recent developments, prior to an emergency meeting of SEAC on 17 May 1990.

4.545 A later minute sent on the same day from Dr Pickles to the CMO and Mr Dorrell enclosed a draft statement which she said had been agreed by the CMO, DH Press Office and MAFF.\(^\text{1612}\) Dr Pickles suggested that this could be sent to health authorities and local authorities. The draft statement said:

According to the advice of outside experts to the Government there is no scientific justification to avoid eating British beef. Beef can be eaten safely by everyone both adults and children [including patients within the NHS].

4.546 In a later minute to Ministers on 15 May 1990, Dr Pickles stated that the text of a draft statement had been agreed with MAFF, the CMO and the DH Press Office.\(^\text{1613}\)

4.547 The final minute sent out by Dr Pickles on 15 May to health and local authorities read:

The Government have taken advice from the leading scientific experts in this field. They have consistently advised us that there is no scientific justification to avoid eating British beef. Beef can be eaten safely by everyone both adults and children including patients within the NHS.\(^\text{1614}\)

Proposal to discuss a draft leaflet for consumers

4.548 On 15 May Dr Pickles minuted Mr Dorrell, saying:

\(^{1609}\) S251 Acheson para. 81
\(^{1610}\) S251 Acheson para. 81
\(^{1611}\) YB90/5.15/6.2
\(^{1612}\) YB90/5.15/7.1
\(^{1613}\) YB90/5.15/7.1
\(^{1614}\) YB90/5.16/16.1–16.2
MAFF seem to be under pressure over unfounded fears that British beef is dangerous because of BSE. Unfortunate action by one of the County Councils in banning British beef in its schools looks like spreading. MAFF would welcome a statement from us to demonstrate our support for their line that beef is still OK. 1615

4.549 In a further minute to Mr Dorrell she stated that in the face of ‘press criticism’ MAFF had asked for active support from DH and the intention was to send the ‘line to take’ to health authorities and EHOs as soon as possible.

4.550 The minute also said MAFF had a leaflet planned for consumers and that the draft would be discussed with Mr Gummer later in the day. 1616 Dr Pickles has said to us that she did not say she specifically would be doing ‘that discussing’. 1617

4.551 Mr Gummer recalled ‘Press coverage of the suspected case of an SE in a cat was extensive, and critical, and MAFF sought support from the DH’. 1618

4.552 Mr Gummer said in a written statement that he met Dr Pickles in the afternoon of 15 May. 1619

That afternoon I met Dr Pickles to discuss the proposed public statements on BSE, including the wording of a draft leaflet for consumers to be issued by MAFF. This also said that British beef, was safe, was not a public health risk and could be eaten with confidence. Subsequently the DOH’s statement to Health Authorities was sent out and MAFF issued a press release containing a written answer to a parliamentary question from William Hague MP. 1620

4.553 He later told us in oral evidence (after being informed of Dr Pickles’s statement (below) that this statement was based ‘upon documentation rather than upon recollection’. 1621 He also said: ‘I cannot recollect the events of that day, which is after all ten years ago . . .’ 1622

4.554 Dr Pickles has said in a supplemental statement to us that she remembers being involved in the meeting with the NFU on 15 May 1990, but does not believe she later met Mr Gummer.

I can remember a meeting with the NFU, although I needed the written record to remind me of the date and details. Mr Gummer’s statement seems to imply we had a one-to-one meeting in the afternoon, and I do not believe I would not remember that. Had I agreed a form of words so different from that which we had agreed within DH and with my CMO, I feel sure I would have remembered it. Mr Gummer’s memory may be better than mine, though I point out that meetings with ministers were rare occurrences for me, and hence more memorable, whereas he had frequent meetings with officials, and presumably they would be less easy to recall. 1623
4.555 Dr Pickles advised us that she knew of no written record of the meeting.

As far as I know, there is no written record of a meeting at which I agreed wording of public statements with Mr Gummer. Although many other records exist from that time, there are of course many missing too. From the papers available to me, as well as there being no written record of the meeting, there is not even allusion to the meeting in related papers, and various other evidence suggests events did not take place as Mr Gummer describes.1624

4.556 Mr Gummer commented again on the alleged meeting in a supplemental statement to us:

As my original statement records, I met with Dr Pickles, representatives of the NFU and others on 15 May 1990. As on that day both the Department of Health and MAFF were drafting public statements on the question of the safety of British beef, I considered when making my original statement that is was highly likely that I would have taken the opportunity on 15th May 1990 to discuss the matter with Dr Pickles. I still consider that to be the case. However, it is true that there is no minute recording a separate meeting between myself and Dr Pickles, nor any minute recording that we did discuss that topic in particular. If Dr Pickles can be absolutely certain, given the length of time that has passed, that we did not discuss the proposed public statements, I cannot disagree with her.1625

4.557 The only recorded meeting on 15 May between Dr Pickles and Mr Gummer was their discussion with representatives of the NFU. Mrs Attridge, Mr Gueterbock and Mr Kevin Taylor of MAFF also attended.1626 It appears the meeting took place at 4.15pm, according to a prior minute from Mrs Attridge.1627

4.558 The conflict of evidence between Mr Gummer and Dr Pickles is considered further in the discussion section of this chapter.

The MAFF press releases

4.559 The first MAFF press release (184/90) stated that Mr Gummer, who was described as ‘Food Minister’, had written to Lady Wilcox to set out the measures being taken to deal with the problem of BSE (this letter was mentioned above in paragraph 4.530). A copy of the letter was attached and said:

The disease

BSE is a brain disease of cattle which belongs to the same group of diseases as scrapie, which has been in the sheep population for over 250 years. The most likely cause of BSE was the feeding to cattle of compound rations which contained protein material derived from sheep some of which were infected with scrapie. The practice of feeding ruminant protein to ruminants, including cattle, sheep and deer, was banned in July 1988 so the source has been cut off.

1624 S115F Pickles para. 5
1625 S311E Gummer para. 1
1626 YB90/5.15/1.1–1.3. The meeting is also considered in vol. 5: Animal Health, 1989–1996
1627 YB90/5.15/11.1
Human health

There is a very rare disease in humans called Creutzfeldt Jacob Disease (CJD) which has an incidence of less than 1 in a million people and worldwide distribution. Despite scientific studies over many years, a link has never been found between scrapie and the human disease CJD, which occurs in countries where scrapie does not exist and which has been known to affect a lifelong vegetarian. There is no reason to believe BSE will be any different from scrapie and independent experts have concluded that BSE is most unlikely to have any implications for human health.

Other species

Some ruminant zoo animals have been reported with a scrapie-like disease which they acquired from the same food source as cattle. There have been cases reported outside the UK in mink, again traced to infected feedingstuff fed on a continuous basis. There is no record of pigs or poultry ever getting the disease. A recent post mortem of a cat in the UK showed a brain condition which is being further investigated. There is at present no evidence that it is transmissible or connected with other animal brain disease of the scrapie family.

Action taken

Tough measures have been taken to ensure that the consumer is reassured and protected:

All cattle suspected of having BSE are slaughtered on farms and destroyed so that no part can enter the food chain. Farmers receive full compensation for their animals.

As an additional safeguard, tissues that might contain the agent which causes the disease (brain, spinal cord, spleen, thymus, tonsils and intestines) in healthy cattle are banned from any use in human food. Cattle under 6 months are exempt since they have not been fed ruminant protein and no cases of scrapie have been found in very young animals.

The precautionary measures taken go further than experts thought necessary to deal with any BSE risk, however remote and theoretical. Added to which studies on scrapie show that the agent which causes the disease is not found in meat. British beef is therefore not a public health risk and can be eaten with complete confidence – a view endorsed by the European Community’s top scientists.

4.560 A second press release (185/90), was issued on the same day. This was entitled ‘British Beef is Safe, Gummer’, and stated:

British beef is perfectly safe to eat John Gummer, Food Minister announced today.
In a written answer to a Parliamentary Question from William Hague, MP, (Richmond, Yorks) Mr Gummer said:

‘The wide ranging measures adopted by the Government have been based on the best scientific expertise available. These experts concluded that the risk to humans is remote but action has been taken;

1. to slaughter and destroy all affected cattle so that no part can enter the food chain;

2. specified offals, including the brain and spinal cord, must be removed from healthy cattle slaughtered for human consumption;

3. banning of the use of these offals as food or in the food products

The removal and banning for food of these offals is a precautionary measure which goes beyond the scientific advice. These actions fully protect the public from what is a remote and theoretical risk.

4.561 The press release went on to state that the situation was being kept under constant review, hence the Committee under Dr Tyrrell had been constituted and a major research programme had been in progress since 1986 with a further £12 million allocated to research. It also stated:

Local Education Authorities can therefore continue to provide beef in school meals with complete confidence. As the Minister responsible for food safety for the whole nation, let me reiterate that British beef is perfectly safe to eat. This is the view not only of our top scientists but also European Community experts.

The Ministry of Agriculture, Fisheries and Food is committed to making public all the information that we have about these matters. That is why we gave out the information about the one cat (out of Britain’s 7 million) diagnosed as having an encephalopathy. There is nothing to link that encephalopathy with BSE or scrapie, or to suggest that it is transmissible. However, we were determined that all this should be in the public domain and we shall continue our investigations, the results of which will also be announced.

4.562 A further press release (INF3/90) again repeated the contents of the letter to Lady Wilcox and was issued by the MAFF Food Safety Directorate. It included ‘BSE: Questions and Answers’. One of the questions was ‘Is the recent case of a dead cat being diagnosed as suffering from an encephalopathy not a disturbing development as it suggests a cross-species transfer of this disease?’ The answer was:

This particular case is being investigated but no evidence to show it is associated with BSE or scrapie, or it is transmissible. The Ministry of Agriculture, Fisheries and Food gave the details of the result of the post-
Another question addressed was ‘Isn’t it true that not enough is known about BSE to ensure the public is protected?’ The answer provided was:

Although BSE is a recent development, a similar disease in sheep, scrapie has been studied extensively. That research provides a solid foundation for dealing with BSE. Our policy has been endorsed by the EC’s independent scientific advisors.

Mr Gummer demonstrates his faith in beef

On 16 May ‘Newsnight’ on BBC2 featured television footage of Mr Gummer feeding his four-year-old daughter Cordelia a beef-burger to demonstrate his faith in the safety of beef. Unfortunately the effect was spoilt, as Cordelia would not eat the beef burger as it was too hot. The commentary noted that Mr Gummer was ‘happy to chomp his way through a beef burger’ but Cordelia was ‘less enthusiastic’.

An article in the Daily Telegraph the following day noted that although grilled steak had been ‘on the menu’ at Downing Street, and Mr Gummer had ‘shared a beef burger with . . . Cordelia’, ‘a succession of local authorities, now totalling 20, said they preferred to err on the side of caution and took beef off the menu.’

On 17 May 1990 an article in The Times reported that Mr Gummer insisted that beef was ‘perfectly safe’. The article also featured a photograph of Mr Gummer feeding the beef-burger to Cordelia. The caption under the photograph stated ‘Where’s the beef? Mr John Gummer pressing a burger on his daughter Cordelia aged four, at Colchester yesterday to underline his contention that beef is safe.’

The newspaper also announced that the House of Commons Agriculture Committee had decided the previous day to undertake an inquiry into BSE and that Mr Gummer had said he would be happy to cooperate with the inquiry.

DH press release

Sir Donald Acheson described his reaction to the report of SE in a cat, and his reluctance to make a public statement without the advice of SEAC, in a statement to us.

I heard of the first recorded case of FSE in a report from Dr Pickles dated 9 May 1990. Although I was aware that scrapie material had transmitted to mink I nevertheless remained deeply concerned about the possible implications of a further transpecies ‘jump’ of BSE. On the basis of the information in Dr Pickles’ report and her second report dated 10 May it was not immediately clear whether this represented a new disease, possibly
caused by BSE infected pet food, or was a naturally occurring case of SE, previously unrecognised in cats. In either case it was important to get expert advice as soon as possible. I therefore gave instructions that although the first meeting of SEAC had just occurred and a second had been arranged for 2 July, an additional emergency meeting must be called. The first practicable date was 17 May. It was my earnest hope that I would not have to make a public statement on the significance of the case of FSE before having the advantage of the advice of SEAC on that date.1637

4.569 Sir Donald Acheson told us that it was clear to him by Tuesday 15 May 1990, that it would be necessary to issue a statement about beef. He first re-read the *Southwood Report*.1638 He recalled:

> The scale of the panic was such, and I was criticised that I had not made a comment . . . that the Press Officer said on 16th: ‘You must make a pronouncement, the press pressure is so enormous.’1639

4.570 After meeting with Dr Tyrrell and Dr Pickles, and consulting Dr Will and Dr Kimberlin,1640 Sir Donald then proceeded to issue a press release which stated:

> British beef can be eaten safely by everyone, both adults and children, the Chief Medical Officer, Sir Donald Acheson, confirmed today. This advice has been given to the National Health Service.

> Sir Donald said ‘I have taken advice from the leading scientific and medical experts in this field. I have checked with them again today. They have consistently advised me in the past that there is no scientific justification for not eating British Beef and this continues to be their advice. I therefore have no hesitation in saying that beef can be eaten safely by everyone, both adults and children, including patients in hospital’.1641

4.571 Sir Donald gave a television interview later on 16 May 1990. An extract of this interview appeared on BBC1 6pm news.1642

James Wilkinson: Today the Government’s Chief Medical Officer lent his support to official efforts to restore confidence in beef.

Sir Donald: There is no risk associated with eating British beef and everyone – children, adults, patients in hospital – can be quite confident that it is safe to eat beef.

4.572 Sir Donald’s statement was re-broadcast on BBC2 ‘Newsnight’ later that evening, introduced by the following comment from Peter Snow.

> And in an unusual step, the Chief Medical Officer made it clear he believed British beef was safe.1643

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1637 S251 Acheson para. 86
1638 IBD1 tab 7, Q. 441, IBD1 tab 2, *Southwood Report*. The often cited comments on the risk to human health in the *Southwood Report* include: page 22, para. 9.2 ‘most unlikely’ that BSE would have any implications for human health; page 22, para. 10.4 the remote chance that this new infection could be transmitted orally to man
1639 T79 p. 129
1640 S251 Acheson para. 86
1641 YB90/5.16/1.1
1642 YB90/5.16/35.1
1643 YB90/5.16/36.1
4.573 Later in the programme, scientists were invited to comment on his statement.

Peter Snow: But what is your view about the judgement made by those authorities up and down the country, quite a lot of them now, who are deciding that for the moment that children anyway should not eat beef.

Dr Ridley: I think they should have taken the advice of the Chief Medical Officer who is the expert on this and he has advised that beef is perfectly safe to eat.

Peter Snow: Helen Grant, what do you say to that? We have had Donald Acheson today, the Chief Medical Officer, saying that there is no danger in British beef.

Dr Helen Grant: Yes, well, he doesn’t really know whether there is any danger. Nobody really knows.

Peter Snow: Well, would he say that if he didn’t know? If he wasn’t very, very sure?

Dr Helen Grant: Well, I don’t know why he says it. But the fact is that there is a theoretical risk, as I’ve already said. 1644

The ‘safety of beef’ paper

4.574 In its emergency meeting on 17 May 1990, SEAC confirmed that it would endorse the CMO’s statement and would confirm this in writing. SEAC met on 17 May 1990. 1645 The minutes of the meeting recorded the views of the members on this issue:

In describing the risk [to humans] as no greater than those of everyday life, this was not to imply that they were in any way comparable, say, to smoking. BSE was of a much lower order of magnitude. But in the present state of knowledge it would not be justified to state categorically there was no risk to humans and it was not appropriate to insist on a zero risk.

4.575 In the event members of SEAC had some difficulty in agreeing the terms of the endorsement of the CMO’s statement. A letter and accompanying annex dealing with the safety of beef was finally agreed and sent to the CMO on 24 July 1990 (see paragraphs 4.672–4.675). The nature of these documents and the manner in which they were drafted are relevant to consideration of the appropriate use of expert committees. This is dealt with in vol. 11: Scientists after Southwood.

4.576 Prior to the final preparation of the letter, Dr Pickles met with the CMO on 23 May 1990. In a minute the next day, forwarded to the CMO and Dr Metters (among others), she noted:

I have spoken to the Bristol vet about cat spongiform encephalopathy. What I hear disturbs me, since he believes (on clinical grounds mostly) the disease
is new for cats and says the other experts in this country, a professor in Liverpool, agree with him . . .

CMO wanted to review all the evidence for himself before deciding if and how to write on the safety of beef. There are some obscure references I still have not obtained but the reliable evidence comes from natural scrapie (experimental disease could have a very misleading tissue distribution) . . .

4.577 In the minutes of a meeting of Permanent Secretaries on 24 May 1990 attended by Sir Donald Acheson, it was noted:

Sir Donald Acheson said that the case that humans were not at risk from BSE through eating beef rested on the analogy with scrapie, where, despite continued consumption of lamb and mutton, cases of similar diseases in human beings had been exceedingly rare, and in no case had there been an apparent link with sheep. It had also proved very difficult experimentally to transfer diseases of this sort between animals, except through brain tissue. The outbreak of a BSE type disease in cats was potentially worrying. It was possible that cats had been contracting the disease for a number of years without this being known, but even if this was not the case it did not necessarily establish that it was possible for humans to contract the disease.

Response from the CMOs and other public health officials in Wales, Scotland and Northern Ireland

4.578 Sir Donald Acheson’s statement on the safety of beef elicited a mixed response from his fellow CMOs in Wales, Scotland and Northern Ireland. The response in Wales and in Scotland is set out briefly below and is covered in greater detail in vol. 9: Wales, Scotland and Northern Ireland. The Northern Ireland CMO, Dr James McKenna, issued a separate statement a few days later in which he endorsed Sir Donald Acheson’s statement, adding that the scientific evidence was complex. Dr McKenna went on to note that the considered opinion of leading experts was that, in spite of a remote theoretical risk, the precautions now being taken made it safe for the public to eat beef.

4.579 In response to news of Sir Donald’s imminent announcement and having seen the draft statement, Dr Deirdre Hine, CMO, Wales (1990–97), convened a meeting of the Health Professionals Group (comprising Welsh Office medical advisers and external medical professionals) on 16 May. The meeting considered the available evidence about CJD and identified several issues on which they later sought clarification from Dr Pickles. Some attendees were concerned about the potential for BSE to be transmitted to humans and advised caution in making categorical statements that beef was safe or ‘completely safe’. The meeting concluded that the Welsh Office should not separately endorse Sir Donald’s statement. On the same day, Dr Hine sent a minute to others in her department
confirming that, if the Welsh Office could not avoid commenting publicly on these issues, the line to take was:

That we have been informed by the Department of Health that they have concluded based on the advice of their outside experts that there is no scientific justification to avoid eating British beef. 1651

4.580 Sir Donald’s statement was endorsed by Dr Kenneth Calman, then CMO in the Scottish Office (1989–91), who told us that he did not issue a separate statement on the basis that ‘several statements from several people might have been confusing in public terms’. 1652 However, Dr Gerald Forbes (Director of Environmental Health, Scotland, 1989–93), previously SMO at the Scottish Office, raised questions in several public arenas about the assurances that had been made about the safety of beef. 1653 He also questioned the way BSE was being investigated and the effectiveness of the measures in place to control it. His widely reported comments led to some concern in the Scottish Office. While officials recognised that they could not bar Dr Forbes from speaking publicly, they thought that he should have reflected and consulted before doing so. 1654 Further details on the steps taken by the CMO in relation to this and on Dr Forbes’s further activities are given in vol. 9: Wales, Scotland and Northern Ireland.

Media reaction to MAFF and DH press releases and Mr Gummer’s statement that ‘beef is safe’

4.581 The press releases from MAFF and DH sparked off further media interest and speculation. On 17 May 1990 an article in The Times entitled ‘MPs launch beef inquiry’ reported that an urgent Parliamentary inquiry had been launched in an attempt to dispel widening public anxieties about BSE. 1655 In conclusion the article reported that the move to ban beef from school menus had spread to the Greater Manchester Area following decisions by seven other education authorities around the country.

4.582 On the same day two articles appeared in the Daily Telegraph. The first of these, entitled ‘Thought for food’, commented that British food ‘crises’ seemed to be an everyday occurrence and that BSE had plunged Mr John Gummer into the latest one. The article stated:

He says he has taken the very best advice available from his Agricultural Ministry’s Tyrrell Committee about the incidence and possible transmission of the disease and that there is no evidence to suggest that BSE can be passed on to the human species. Others have turned this argument on its head saying there is no evidence to show it cannot. Some local authorities have begun placing restrictions on the use of various British beef products as a ‘precautionary measure’. Spokesmen for the Labour party have not been slow to harry an increasingly beleaguered Mr Gummer as if he were personally responsible for the emergence of the virus. Mr Gummer must know that many of his critics are behaving illogically and irresponsibly but he must also see that, whichever way he turns, he cannot win. Indeed, he may

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1651 YB90/5.16/13.1
1652 T66 pp. 28–9
1653 eg. YB90/5.22/6.1
1654 S180A Hart para. 5
1655 YB90/5.17/24.1
already feel the ghost of Edwina Currie’s shattered political reputation hovering a little too close for comfort.1656

4.583 The second article was entitled ‘Mad Cow fears force inquiry’.1657 This claimed that an urgent inquiry into the threat posed by ‘mad cow disease’ was launched by the Commons Agriculture Committee on 16 May as the Government stepped up efforts to reassure the public that beef was safe to eat. It was stated:

But while Sir Donald Acheson, the Government’s chief medical officer, insisted there was no scientific justification for banning British beef, more councils removed it from school menus.

4.584 The article went on to state that the number of local authorities banning British beef in schools by then totalled 20 and included Sheffield, Clwyd and Wolverhampton councils.

**Parliamentary statements and debates about BSE**

**Mr Gummer’s statement to the House of Commons**

4.585 On 17 May 1990, Mr Gummer made a statement to the House of Commons concerning the Government's policies to deal with and inform the public about BSE. Mr Gummer’s statement was summarised in a MAFF news release issued the same day and he was quoted as saying:

I am naturally concerned to ensure that the public knows that the clear and consistent advice of the best scientific opinion is that British Beef is safe. I refer the House to the statement which the Chief Medical Officer made yesterday. He said that he had taken advice from the leading scientific and medical experts in this field.1658

**House of Commons debate on BSE**

4.586 On 17 May 1990 BSE was discussed at a Cabinet meeting.1659 Mr Gummer notified the meeting that there had been growing public concern in recent days resulting from the discovery that a cat had contracted an SE and that the Opposition had chosen BSE for debate on 21 May 1990. The minutes record that:

[Mr Gummer] saw no option for the Government but to continue to stand firmly on the best scientific advice available to them. The Government’s record on the matter was good. They had banned the practice of feeding ruminant protein to herbivores, which had led to the initial development of the disease. They had also responded quickly and positively to the Report of the Working Party on BSE chaired by Sir Richard Southwood; indeed, they had gone beyond the recommendations of the Southwood Report in taking precautions to ensure that specified bovine offals did not enter the food chain.1660
At the House of Commons debate on 21 May 1990, Dr David Clark opened the debate condemning the Government’s ‘mishandling’ of BSE. He stated:

This is an issue of great magnitude: potentially, it poses the greatest threat of the century to British agriculture. The possible implications of bovine spongiform encephalopathy – or mad cow disease, as it is known – threaten the existence of the entire British cattle herd. Moreover, these serious assertions ignore any possible risks – remote though they may be – of the disease being transmitted to humans.1661

He also argued that a random sampling of routinely slaughtered cattle would show that ‘BSE cattle had slipped through the net’.1662

Mr Gummer responded by outlining the steps the Government had taken thus far including research initiatives, the ruminant feed ban,1663 making the disease notifiable in June 1988, setting up the Southwood Working Party, introduction of the slaughter with compensation scheme, introducing the SBO Regulations1664 and the establishment of SEAC, chaired by Dr Tyrrell.1665

Mr Gummer also stated that all the results of research were ‘open’ and that although there was no evidence of any link between SEs in cats and BSE, that information had nevertheless been made public. He added that the specific advice of the Southwood committee had been to be alert to encephalopathies in household pets and that two or possibly three cases in cats had been identified.1666

Mr Alan Williams (MP for Carmarthen) stated:

The issue has gained extra momentum over the past two weeks because it has been found that cats have possibly died from contracting BSE . . . cats have digestive systems that are far more similar to those of human beings than cows. If the BSE particle or virus can survive the robust digestive system of a cat . . . it is most disturbing and significant that BSE can kill carnivores.

The more that BSE jumps species, in the way that scrapie jumps species, the more concerned every one of us should be.1667

Mr Charles Wardle (MP for Bexhill and Battle) responded by asking if Mr Williams was suggesting that the CMO ‘is wrong to assert that there is no risk to humans from eating beef’.

Mr Williams replied:

. . . I have said that no scientist can say that. The Southwood Committee, which has produced perhaps the most authoritative document, said that the chance is extremely remote . . . no scientist can say one way or another. It will be at least a decade before we can give a firm no to that question.1668
Further MLC publicity

MLC press release

4.594 On 17 May 1990, MLC issued a further press release entitled ‘British Beef is Safe’.

This stated:

Eating British beef is completely safe, said Geoffrey John Chairman of the Meat and Livestock Commission at a conference today.

He said: ‘What is more important is that British consumers have demonstrated good sense to acknowledge this by continuing to eat much the same amount of beef they have in the past decade.

This is in spite of the welter of conflicting, confusing and often inaccurate information about Bovine Spongiform Encephalopathy – or Mad Cow disease, if you wish – that has been presented to them.

I would like to take this opportunity to repeat the most eminent and distinguished scientists in Britain and in the rest of Europe have concluded there is no evidence of any threat to human health as a result of this animal health problem.

This view has been endorsed by the Department of Health which in its advice to health authorities, has stated categorically that ‘beef can be eaten safely by everyone, both adults and children, including patients within the NHS.’

4.595 The press release went on to reassure that:

There has not been one shred of practical, proven research to indicate this disease is in any way a threat to human beings.

MLC video

4.596 On 22 May 1990, Mr Colin Maclean sent an internal memo enclosing a draft narrative of a video entitled ‘Beef – The Facts’ for distribution to local authorities.

In the video, having introduced himself, Mr Maclean went on to state:

I want to talk to you about BSE, Bovine Spongiform Encephalopathy, and to indicate clearly to you that this presents no risk to you personally or the people in your care.

4.597 He then gave a brief description of BSE as being a nervous disease that occurred only in adult cows, followed by a brief summary of scrapie and CJD. He continued:
The BSE agent has never been found in meat, milk, fat, blood or gristle. It occurs in the banned offals that never find their way into the human food chain.

In 1988 the Government commissioned a report from a group of eminent scientists led by Professor Richard Southwood of Oxford University. They reported eighteen months ago that if the current meat industry practices continued, the chance of transmission of BSE from cattle to man by any method was remote – if they do nothing.

But they did do something. They did quite a lot. To eliminate even that remote possibility they firstly made the disease notifiable, which means that all affected animals must be totally destroyed and secondly they brought in the specified offal ban and by so doing they took all of the offending tissues out from both normal cattle and of course the infected cattle.

So they have removed all the residual risk.

. . .

Finally, to quote the Government’s Chief medical Officer, Sir Donald Acheson ‘Beef can be eaten safely by everyone, both adults and children, including patients in the National Health Service.’

. . .

I trust you are now satisfied that beef and all beef products are safe to eat. Sausages, burgers, minced meat, meat pies and other products containing beef are all perfectly safe.

. . .

You may have heard some concern expressed about small amounts of brain and spinal cord getting onto the carcass in the abattoir.

True enough, this may happen but it presents no threat. If this material was all infected – which it isn’t – then you would have to eat an impossible amount to put yourself at any risk.

One person has suggested that in order to infect cattle the agent may have changed, mutated, and so it can change again to infect humans. There is now sound scientific evidence that this is simply not the case.

To summarise 18 months ago the Southwood Committee said that the chances of transmission of BSE from cows to man was remote. Since that time, all affected animals and all the affected material have been removed from the human food chain and destroyed. Also the susceptible material from perfectly normal animals. Thus a remote possibility has been turned into an impossibility.
I am still eating beef. My two daughters are still eating beef and my two year old grandson is still eating beef. Beef and beef products are safe.1671

4.598 On 23 May 1990, nine days after MLC’s distribution of the draft for the ‘Beef – The Facts’ video, Mr Colin Maclean sent a minute to Mr John (Chairman of the MLC) concerned that the professional opinions of the MLC may have been in conflict with Government policy. On treatment of heads and splitting of the carcass in the abattoir and boning halls he stated:

I do not think we can tenably ‘hold the ring’ using our dose argument. I think we have to start to think about recommending practices which retain the brain in the skull until it is destroyed. The pathology of the disease suggests that the mid thoracic spinal cord may contain more infective material earlier, i.e. in the incubation period. I therefore think that splitting of the carcass and resulting contamination will come under serious pressure. There may be alternative ways of removing the spinal cord (e.g. sucking it out whole) and I believe MLC should be sponsoring such work.1672

MLC quote in Today newspaper

4.599 The Today newspaper on 24 May 1990, in an article entitled ‘Mad pig plague alert by brain specialist’, Dr Gareth Roberts, a neuropathologist at St Mary’s Hospital, was reported as being ‘alarmed’ that ‘infected parts of sheep which produced mad cow disease are still being fed to pigs and poultry’ and thought it should be banned.

4.600 The MLC were quoted at the end of the article:

But the Meat and Livestock Commission denied that pigs could catch mad cow disease.

Director-General Chris Oberst said: ‘Pigs in this country are healthy, and pork, pork pies, sausages and all pork based products can be eaten with every confidence’.1673

4.601 The MLC publicity is covered in more detail in the discussion section of this chapter.

Reports of a second and third cat with SE spark off further media reaction

4.602 On 16 May 1990 the Department of Agriculture Northern Ireland (DANI) reported a second possible case of SE in a cat to the Northern Ireland Minister.1674 The cat had originated from Belfast and had died on 11 May 1990. The matter was also reported to MAFF.1675 On 21 May 1990, Mr Robert Lowson (Head of Animal Division, MAFF) received a minute from DANI setting out a draft joint MAFF/
DANI announcement confirming the discovery of SE found in a domestic cat from Belfast.\textsuperscript{1676} In the ‘Note for Editors’ it was stated that:

A similar condition was diagnosed in a cat from the Bristol area last week. This was the subject of a letter from the MAFF Chief Veterinary Officer to the ‘Veterinary Record’ on 10 May. This letter indicated that there is no evidence to show that the condition is transmissible to humans nor that there is any known connection with other animal encephalopathies. The discovery of a second does not provide any reason to change these conclusions.

4.603 For further discussion of DANI’s involvement in the BSE story see vol. 9: \textit{Wales, Scotland and Northern Ireland}.

4.604 On 22 May 1990 the \textit{Irish News}, in an article titled ‘Belfast cat had version of cow disease’, reported that the DANI had confirmed that a cat examined for traces of ‘mad cow’ disease had been suffering from SE.\textsuperscript{1677} The article pointed out that DANI had said ‘that there was no evidence to show that the condition was transmissible to humans or that there was any known connection with other animal encephalopathies’. The story was also reported in the \textit{Irish Press},\textsuperscript{1678} the \textit{Irish Independent}\textsuperscript{1679} and the \textit{Irish Times}.\textsuperscript{1680}

4.605 On the same day the \textit{Daily Telegraph} also reported the case of the cat under the headline ‘Abattoir check as BSE is confirmed in second cat’.\textsuperscript{1681} The article reported that the Government had called for a review of abattoir practices to ensure that the brains of animals with ‘mad cow’ disease did not contaminate meat. It was also stated that the body of a third cat was in the process of being examined after having displayed similar symptoms. Dr David Clark (Agriculture spokesman, Labour) was reported to have accused the Government of having no policy for tackling the disease apart from a ‘hope and prayer’ that it would go away. The case of the third cat with SE was confirmed within MAFF on 13 June 1990.\textsuperscript{1682}

4.606 Later, on 20 July 1990, Mr Lowson circulated a minute to Mr Maclean, Mr Gummer, Mr Meldrum, Mrs Attridge, Mr Kevin Taylor and others. He noted that there had been five cases of cats with SEs in Great Britain. He said:

We have hitherto announced each of these findings but Ministers will want to consider whether to continue doing so. Clearly it cannot be ruled out that further cases will emerge and announcing their confirmation might do more damage in terms of stirring up controversy than not doing so might lead to accusations of secrecy, now that it is clearly established that cats are susceptible, so that another case is not really news. I therefore recommend that in this and subsequent cases we do not make any public announcements but rather simply be prepared to use the information in response to enquiries.\textsuperscript{1683}
4.607 Mr Derek Andrews advised of his agreement with this advice and Mr Maclean approved this approach. 1684

**Continuing concerns**

**Concern from consumer groups**

4.608 On 21 May 1990, Mr David Maclean and Mr Meldrum met with representatives from consumer groups. 1685 The meeting had been called by Mr Maclean in order to ‘take stock of the latest developments on BSE and to reassure consumer groups on any points of detail concerning the disease’. 1686

4.609 The minutes of the meeting record that the point was raised that scientific opinion was not united on the risks associated with BSE and that this left consumers in a very difficult position as to whom to believe. Mr Maclean offered to provide a list of all the top experts who were specialists in this area. In addition it was suggested that guidance should be offered to consumer organisations on the criteria to follow in assessing which ‘experts’ to believe. 1687

**Concern from the Consumers’ Association**

4.610 A minute from Dr J Bell on 30 May 1990 informed MAFF officials that the Consumers’ Association had decided to hold a private seminar to discuss risk assessment. 1688 She noted that:

The Consumers Association have clearly begun to recognise that there is no such thing as 100% safe food.

4.611 Having attended the meeting she later reported in a minute dated 7 June 1990: 1689

General concern was expressed over the loss of confidence of the public in the pronouncements of Government in general and those relating to the safety of food in particular. It was agreed that the assessment/approval system had worked well in the past but [was] now increasingly being called into question. The reason for this was thought to be a better educated public with a greater interest in the quality of life. Simple risk information along the lines that food is safe/unsafe as deemed by the Government was no longer thought to be acceptable. The feeling was that there was a need for more transparency in the risk assessment process.

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1684 YB90/7.20/6.1
1685 YB90/5.21/12.1–12.6. The consumer group representatives included Joan Richardson (Townswomen’s Guilds), Sue Townsend (Consumers in the European Community Group), Sue Payne (National Federation of Consumer Groups), John Godfrey (Consumers in the European Community Group), and Ann Foster (NCC)
1686 YB90/5.21/12.1. Discussion at the meeting of concerns regarding head-splitting and from risks associated with nervous tissue is described earlier in this chapter – see para. 4.192
1687 YB90/5.21/12.3
1688 YB90/5.30/13.1. Members of MAFF who received the minute included Mr Capstick (Head of Food Safety Directorate), Mr B Dickinson (Under Secretary Grade 3), Mr Cockbill (Under Secretary Grade 5, Food Safety Division) and Mr McKinley (Animal Health Division 1)
1689 YB90/6.7/20.1–20.3. This minute was also sent to members of MAFF including Mr Capstick (Head of Food Safety Directorate), Mr B Dickinson (Under Secretary Grade 3), Mr Cockbill (Under Secretary Grade 5, Food Safety Division) and Mr McKinley (Animal Health Division 1). The minute was also sent to Dr Barlow (SH)
On 25 June 1990 the Consumers’ Association issued two press releases. The first was entitled ‘Consumers Lose Confidence in MAFF over “Mad Cow Disease”’. This stated that the Association questioned the eating of beef. It continued:

And the bland reassurances of the Agriculture Minister, John Gummer, that beef is ‘100 per cent safe’ have contributed to public confusion and concern, says the Association.

Recent surveys show an erosion in consumer trust in MAFF, and in the Government’s willingness to protect consumers and give them accurate information about food safety issues such as BSE. Although the Minister claims to be representing the consumer interest, there is strong evidence that many consumers are highly sceptical of his actions. They say they can no longer trust MAFF to protect consumers’ interests.

Although the risk of BSE being transmitted to human beings appears to be remote, great caution is needed in handling the current outbreak, warns the Association.

The press release concluded:

The measures already introduced by the Government have been welcome – but are insufficient, says the Association. Further action is vital as a precaution and to reassure consumers about the Government’s intentions.

The second press release, also issued on 25 June 1990, was entitled: ‘Act Now on BSE, Urges Consumers’ Association’. This stated that the Association was calling on the Government to take urgent action on BSE. It continued:

The recommendations include measures to improve consumer confidence, disease investigation and slaughterhouse practices

The press release listed 10 areas that the Consumers’ Association wanted the Government to act upon. These ranged from spinal bones, MRM, feed practices, a ban on animal offal, slaughterhouse practice and cattle tracking and breeding. One of the points was to ‘give consumers more information about meat products, including species, country of origin and presence of MRM’.

The press release concluded:

The Government must act, even though the risk of BSE being transmitted to humans appears to be remote’ says CA’s Head of Policy Research, Stephen Locke. ‘Any measures it takes are, however, unlikely to win back consumer confidence unless the Ministry abandons its patronising and secretive approach to legitimate consumer concerns.’

Sheila McKechnie, the Director of the Consumers’ Association, told us that surveys commissioned by the Consumers’ Association explored consumer attitudes to food safety. She stated that, in July 1989, three out of four people agreed with
the statement ‘The Government has failed to protect consumers from unsafe food.’
In December that year another survey found that publicity about food safety had
affected the buying of food for 39 per cent of respondents.

4.618 She also told us that the Consumers’ Association submission to the 1990
Agriculture Committee (see later in this section) contained some relevant survey
results. One survey for the Today newspaper found that over half of respondents
(55 per cent) believed that MAFF could not be trusted to tell the truth about the
health crisis surrounding BSE. Similarly, a Gallup survey found that 60 per cent
believed MAFF to be withholding facts about BSE.

4.619 She added that qualitative research in May 1990, for example, found that
consumers viewed the Minister of Agriculture’s statement that ‘beef is safe’ as
simplistic.

The MAFF Consumer Panel

4.620 At the MAFF Consumer Panel meeting on 11 July 1990 the minutes of
the meeting recorded the following:

Mr Maclean explained that despite what people were saying, the
Government’s policy on BSE is, and has been, to ensure the public got as
much reliable information as possible. He asked for the Panel’s view on how
the Government could get its message across to the public without causing
undue alarm. Mrs Craig believed that Mr Gummer’s statement that beef was
entirely safe had not been helpful. With a disease such as BSE it was
impossible for anyone to prove that beef was entirely safe. Mrs Leather
added that that from the public’s point of view, MAFF were perceived as
ignoring as pointless, informed calls for research into specific areas of
concern such as slaughterhouse practices.

Evidence on the safety of beef received by the House of Commons Agriculture Committee Inquiry into BSE

4.621 As described earlier in this chapter, the Agriculture Committee of the House
of Commons produced the report on its inquiry into BSE in July 1990. The
Committee dealt with a broad range of issues relevant to BSE; earlier in this chapter
we looked at the evidence it had received in relation to brain removal and MRM. In
this section we are mainly concerned with the evidence received by the Committee
on the safety of beef.
Mr Gummer’s evidence

4.622 Mr Gummer gave oral evidence to the Committee on 23 May 1990. Mr Meldrum, Mrs Attridge and Dr Pickles accompanied him to the hearing.

4.623 Mr Gummer commenced by briefly summarising the emergence of BSE and the steps taken by the Government in response, and then commented:

[T]he Government has responded to the emergence of Bovine Spongiform Encephalopathy with a vigorous and coherent programme of measures. These are directed first to concerns about human health, however theoretical the risk may be, and second to eradicate the disease as quickly as possible from our cattle population. As far as public health is concerned the clear advice of top independent experts is that the risk to humans is remote . . . The plain fact is that there is no evidence that BSE poses any risk. 1696

4.624 He concluded his opening statement ‘more personally’:

When I became Minister of Agriculture, Fisheries and Food just less than a year ago, I made it plain from the first day that I was a consumer minister whose first and overriding concern was public safety and the interests of the customer . . . I am determined to continue to put consumer safety first, to rely on the best available scientific advice, and to be utterly open about all the information upon which I act. I welcome the Chief Medical Officer’s statement that British Beef may be eaten safely both by adults and children and I intend to keep it that way. 1697

4.625 Mr Eric Martlew (MP for Carlisle) questioned Mr Gummer on his public pronouncements on the safety of beef. Mr Martlew pointed out that Southwood had said it could be a decade before a complete reassurance could be given on the transmissibility of BSE to man, yet Mr Gummer and Sir Donald Acheson seemed to be telling the public that beef was ‘perfectly safe’. Mr Gummer responded:

I certainly would not dream of doing other than saying what I am advised. I have no independent knowledge which would lead me to be able to say on my own volition what I think the risk of these matters are. What I have done, consistently and continually, is to quote the precise words of the Chief Medical Officer . . . It seems to me to be proper for me to say to the public the one thing which they want to know: is it safe to eat British beef? 1698

4.626 Mr Martlew pressed Mr Gummer further, and argued that there was still a credibility gap: Sir Richard Southwood was not prepared to say there was no remote risk, and therefore Mr Gummer should acknowledge to the public that a complete assurance that beef was safe could not be given. Mr Gummer did not accept this, and sought to draw a distinction between two matters:

On the one case we are talking about whether BSE could be transmitted to humans. What Dr Southwood was worried about was other means whereby BSE might be transmitted to humans. The question we are asking when you ask can you eat beef is: is there a chance of you getting BSE from beef? What
the Chief Medical Officer is saying is: ‘I have no hesitation in saying that British beef can be eaten safely’. Those are two different things.\textsuperscript{1699}

\textbf{4.627} The discovery of SE in cats was also discussed with Mr Gummer. He explained to the Committee the difficulties the Government had in that they did not know whether SE had always been present in cats, since they were not examined upon death. It was only due to BSE that vets had been extra-vigilant in looking for SEs. Mr Gummer found it very difficult ‘to say other than that we have had these cases, that the reason we have had these cases is largely because of the concern about BSE but there is absolutely no evidence at all that it is connected with BSE . . .’\textsuperscript{1700}

\textbf{Evidence of scientists with alternative views to Government}

\textbf{4.628} Scientists who had expressed opinions and theories that were at odds with the official Government line were examined on 13 June 1990. Among those who appeared were Professor Richard Lacey,\textsuperscript{1701} Professor I H Mills,\textsuperscript{1702} Dr Helen Grant\textsuperscript{1703} and Dr Gareth Roberts.\textsuperscript{1704}

\textbf{4.629} The witnesses were first asked whether they agreed with Sir Donald Acheson’s statement that beef was safe to eat. Dr Roberts and Professor Mills agreed, but Professor Mills pointed out that ‘made up meat dishes’ were not safe because there was not ‘enough care in the slaughterhouse’. Professor Lacey and Dr Grant did not agree with Sir Donald. Professor Lacey commented that the ‘measures that have been taken have been largely cosmetic aimed at reassuring the public, not curative’. He continued:

\begin{quote}
British beef could well contain three components that could make it dangerous: one is nerves; two is lymphatics and lymph nodes; and three, during the actual slaughtering process, opening up the brain and spinal cord, those products could be present on the actual meat. We do not know if it is safe or not.\textsuperscript{1705}
\end{quote}

\textbf{4.630} Mr Christopher Gill (MP for Ludlow) then questioned Professor Lacey at length, his main theme being that Professor Lacey’s written evidence to the Committee was short on fact and long on speculation and conjecture. Professor Lacey maintained that he was right to say that beef was not safe, and that ‘we cannot rule out the possibility of the disease spreading to humans, particularly pregnant woman and children’. He further claimed that these were opinions based on facts.\textsuperscript{1706}

\textbf{4.631} Dr Grant pointed out that throughout her reading she had come across only one occasion upon which red meat had been used to transmit scrapie from sheep to goats, whereas infective tissues such as brain and pituitaries transmitted the disease easily. Therefore:

\begin{quote}
\footnotesize\textsuperscript{1699} IBD1 tab 7 p. 8
\textsuperscript{1700} IBD1 tab 7 pp. 14–5
\textsuperscript{1701} Professor of Clinical Microbiology, University of Leeds
\textsuperscript{1702} Emeritus Professor of Medicine, University of Cambridge
\textsuperscript{1703} Retired neuropathologist
\textsuperscript{1704} Department of Anatomy and Cell Biology, St Mary's Hospital Medical School
\textsuperscript{1705} IBD1 tab 7 pp. 43–44
\textsuperscript{1706} IBD1 tab 7 pp. 46–7
\end{quote}
We have to face the fact that there is perhaps a risk in eating the red meat of mutton and of beef but it is infinitesimally small, there are so many more risky things in life. We have to be practical about these matters. The thing is to get the offal out of the system and then we can forget about the fact that muscles have nerve supplies and there may be the odd bug lurking in the nerve.\textsuperscript{1707}

Evidence of the Government’s scientific advisers

4.632 Sir Richard Southwood (Professor of Zoology and Chairman of the Southwood Working Party), Mr Wilesmith and Mr Bradley appeared before the Committee on 14 June 1990.

4.633 Sir Richard was asked to clarify any confusion over whether the chance of BSE being transmitted to man was remote or non-existent. He explained that, given the precautions taken by Government, the chances of BSE being transmitted to humans were extremely remote. However, it was not impossible. Further, when asked whether he believed it safe to eat beef, he replied: ‘I think it is safe to the extent that anything in this life is safe.’\textsuperscript{1708}

Sir Donald Acheson’s evidence

4.634 Sir Donald Acheson, CMO, gave evidence to the Committee on 20 June 1990.\textsuperscript{1709}

4.635 He described the circumstances surrounding his ‘beef is safe’ statement on 16 May 1990 (see paragraph 4.570). He emphasised that the statement had been cleared with the Government’s scientific advisers, and that he was under no pressure from either MAFF or DH Ministers to make the statement. He continued:

I just say it is safe. It can be eaten safely by everyone. There is the question of whether one should speak about theoretical risks and remote possibilities. I considered that and, of course, also I looked carefully at what Sir Richard Southwood said and what David Tyrrell advised me and I considered that it would be proper not to qualify these words in any way in either direction.\textsuperscript{1710}

The Committee’s conclusions and recommendations

4.636 The Committee noted that despite the introduction of the slaughter and compensation policy and the SBO ban:
Additional grounds for concern do exist. They derive from the many scientific uncertainties surrounding BSE which are currently the subject of investigative research. We should emphasise at this stage that, because of the disease’s long incubation period and for other reasons, research is unlikely to provide early or decisive answers to many of the questions of public concern. We shall simply catalogue the principal issues and provide an assessment of the available evidence.  

4.637 The Committee’s conclusions are described below.

**Are humans at risk from BSE-affected cattle?**

4.638 The Committee addressed the following circumstances in which BSE might be transmitted to humans:

- Through medical injections of material derived from bovine sources from an affected animal;
- In specified offal from an affected animal consumed prior to the introduction of the SBO ban in November 1989;
- In specified offal from an affected animal consumed after the introduction of the SBO ban; and
- In beef or products from an affected animal.  

4.639 Although transmission via injections was a serious consideration, the Committee noted that since the Licensing Authority for medicinal products had been alerted to BSE issues, and injections had no bearing on whether beef was safe to eat, it did not need to deal with the issue any further.  

4.640 Regarding the consumption of SBO prior to the ban, the Committee stated it ‘lies in the past’. However, because of the possibility that transmission could have taken place, and those humans affected would probably not have manifested clinical signs as yet, the monitoring of CJD incidence was important.  

4.641 The Committee observed that while human consumption of affected cattle’s offal may seem to be a dangerous scenario, ‘most experts seem to feel that transmission of the BSE agent by this route is most unlikely’. It noted that no causal link had been found between scrapie and CJD, which was ‘extremely suggestive, although scientists are rightly wary of regarding it as conclusive, since each known spongiform encephalopathy has individual characteristics’.  

4.642 There were two further reasons why the transmission of BSE to man in food was considered unlikely by the Committee:

Preliminary experimental comparisons of the relative infectivity to non-human primates of scrapie/BSE and CJD suggest that scrapie/BSE are far less infectious;
The oral route has proved inefficient, in laboratory experiments, in transmitting encephalopathies.  

4.643 While the latter factor was not conclusive, the Committee believed that, taken together, ‘these arguments provide substantial reassurance’.

4.644 The Committee then considered the SBO ban. It noted that ‘the offals could enter the food-chain through slaughterhouses failing to carry out the letter of the regulations and allowing possibly infected tissues to be included in mechanically recovered meat (MRM)’. The Committee said that passing the legislation was one thing, but ensuring it was rigorously enforced in practice was another. While there was no evidence of an irresponsible approach to the regulations, ‘it cannot be assumed they are watertight’.  

4.645 Finally, the Committee discussed the fourth possible route of infection: through beef from an affected animal. It pointed out that most scientists considered this to be ‘an extremely remote hypothesis’, but noted Professor Lacey’s dissenting view (see paragraphs 4.629–4.630). The Committee gave emphasis to the point that ‘the infectivity of the agent is related to the quantity of the agent involved’. Thus:

Although, therefore, the authorities are right to address the possibility that infectious tissue from a sub-clinically affected animal might inadvertently be included with, or otherwise contaminate, meat sold for human consumption, such a possibility need not cause undue concern because of the small quantities of the agent likely to be involved. This element in the scientific arguments has a critical bearing on the food safety issue, but has been consistently ignored or understated by those wishing to present the risks to humans in their most dramatic light. 

4.646 The Committee concluded that BSE was a comparatively new disease about which many questions remained unanswered and that few of the scientists examined could say anything about the disease with absolute certainty. On the other hand there was no evidence that it did pose a threat to human health. The Committee believed that the Government’s action in cutting off the presumed source of the disease in cattle and the banned sale of all SBO for human consumption should ‘reassure people that eating beef is safe’.

Government response to BSE

4.647 The Committee identified the introduction of the SBO ban, the publication of the Tyrrell Report and the introduction of full compensation for slaughtered animals as instances where too much time elapsed between the need for action arising and action being taken.

4.648 In particular, on the introduction of the SBO ban, the Committee stated that:
We believe that, in this instance, the Government showed a lack of urgency in doing what was necessary. This contrasts with the prompt manner in which decisions generally have been taken.\textsuperscript{1721}

\textbf{4.649} The Committee also concluded that the cornerstone of the Minister’s policy – to take ‘the best scientific advice’ and not go beyond that advice just to satisfy public anxiety – was too restrictive. The Committee added:

We believe that the Minister should be prepared to go beyond what his scientific advisers have recommended, whether for political, commercial or other reasons. Scientists do not automatically command public trust, particularly when they are in disagreement with each other, and when the issues concerned do not lend themselves to simple yes/no answers but involve computations of whether particular risks are acceptable or unacceptable to members of the public, decision-making is not a purely scientific process, however much one might wish it was.\textsuperscript{1722}

\textbf{The transmission of BSE to a pig}

\textbf{4.650} In February 1989 an experiment was started to discover whether BSE could be successfully transmitted to pigs through inoculation. The implications for animal health, once results became available, are considered in vol. 5: \textit{Animal Health, 1989–96}. Mr Wells reported the results to Mr Michael Dawson (Research Officer, CVL) on 20 August 1989 in a confidential pathology report. Mr Wells concluded:

The changes are unequivocally those of a scrapie-like encephalopathy. The clinical history of this animal also provides strong supportive evidence of a scrapie-like disease.

The result, albeit confined to one animal in the experimental challenge group is incontrovertible evidence of the transmissibility of BSE to the pig by simultaneous intracerebral, intravenous and intraperitoneal inoculation routes.\textsuperscript{1723}

\textbf{4.651} On 23 August 1990, Dr Pickles informed the CMO of the discovery.

CMO should be aware that a pig inoculated experimentally (ic, iv and ip) with BSE brain suspension has after 15 months developed an illness, now confirmed as a spongiform encephalopathy. This is the first ever description of such a disease in a pig, although it seems there are no previous attempts at experimental inoculation with animal material. The Southwood group had thought pigs would not be susceptible. Most pigs are slaughtered when a few weeks old but there have been no reports of relevant neurological illness in breeding sows or other elderly pigs.

\ldots

\textsuperscript{1721} IBD1 tab 7 p. xv
\textsuperscript{1722} IBD1 tab 7 pp. xv–xvi
\textsuperscript{1723} YB90/8.20/3.1
An urgent meeting is being called of the full SEAC committee but since key members and the chairman are now overseas at a meeting this may not be until the week beginning the 3rd September. Points for consideration:

(i) In view of the long term exposure of pigs to scrapie without ill effect, does this suggest the species range for BSE is wider than that of scrapie, and if so what are the implications?

... is any action needed to protect humans, eg extending the offal ban to pigs?

... For information, there are now 9 cats with feline spongiform encephalopathy, suggesting this is indeed a new disease and exposure to BSE unlike scrapie has been hazardous for cats.

Mr Maclean was informed last night and has agreed an early meeting of SEAC is required to give advice on which decisions will be made. In the meantime, he does not want to go public. Mr Maclean is expected to advise Mr Gummer. In these circumstances, CMO might like to consider whether PSH should be informed.1724

4.652 Mr Maclean discussed the significance of the transmission of BSE to the pig in his oral evidence to us.

MR MACLEAN: I would have said as well that there was a great difference between this pig and the earlier discussion on the cat because this would be the first, I think, firm evidence that an animal under proper laboratory conditions which had been injected with bovine material, the contaminated BSE material from infected cattle directly into the brain, this would be scientific evidence that it had crossed species. Whereas in the cat case, I think even two months later at the time of the pig, it was still a TSE. One had no evidence then where this had come from. All cats might have a latent form of TSE for all we knew and we could not conclude in the case of the cat, rightly so, that it had moved to a new species. But this was the first firm evidence of sorts that a BSE material injected into a pig could give a pig a form of BSE and, therefore, that required action, and a change of policy.1725

4.653 Also on 23 August 1990, Sir Donald Acheson minuted Mr Stephen Dorrell, DH Parliamentary Under-Secretary, and said:

While this clearly is a cause for concern we should not jump to the conclusion that this means that pigs will necessarily be infected by bone and meat meal fed by the oral route as is the case with cattle. An important point to take into account is that it appears that brain material from sheep infected with scrapie has never been experimentally injected into pigs and it may well be that pigs would also be infected by this route.
At the moment there is insufficient information on which to base any further action. In particular I do not think that it is necessary for any Medicines Control Agency or the Procurement Directorate to take any action about porcine materials. The next step should be to await the result of discussions at the next meeting of the Tyrell Committee which will be held early in September. I have discussed the matter with Professor David Tyrell and he agrees. Mr Maclean has been advised of the situation.\textsuperscript{1726}

4.654 Sir Donald explained in his statement to us that that failure to inject the pigs with scrapie meant ‘no valid conclusions that BSE differed from scrapie in its infectivity to pigs could be made’.\textsuperscript{1727}

4.655 An interim report prepared at the request of SEAC on the transmission of BSE to a pig noted in conclusion:

This indicates the previously unrecognised susceptibility of the pig to a scrapie-like disease and extends the experimental host range of BSE. Like the results obtained from similar studies in mice and cattle the finding provides no information on the probability of disease occurring in pigs from natural dietary exposure.

The greatest political impact of this finding will be to renew concerns regarding the practice of recycling animal proteins and the potential human health risk from consumption of products of species receiving such proteins.\textsuperscript{1728}

4.656 A preliminary meeting of SEAC took place on 7 September 1990. The minutes of the meeting noted that many questions relating to the experiment remained unanswered, for example:

– would scrapie produce spongiform encephalopathy in a pig under similar conditions?
– would smaller doses be effective?
– would large doses given by mouth be effective?
– do the tissues of sick or healthy infected animals contain infectious BSE?

4.657 The minutes recorded that for future action it was ‘essential to look for naturally-occurring disease in pigs’. Although it was ‘difficult to draw conclusions from one experimental result from what happened in the field’ it would be ‘prudent to exclude specified bovine offals from the pig diet’. It was not necessary to extend the ban on the use of ruminant protein to non-ruminants providing the SBOs had been removed.\textsuperscript{1729}

4.658 It was also noted:
There were no new implications for human health in the fact that a pig had shown itself susceptible under laboratory conditions. If there was a hypothetical risk, it would be highest where porcine tissues which were likely to contain the agent were used in preparations which were injected or implanted into human beings or livestock. This possibility should be brought to the attention of the Medicines Control Agency, the Medical Devices Directorate, and the Veterinary Medicines Directorate.\textsuperscript{1730}

If clear evidence were to emerge that a spongiform encephalopathy occurred in British pigs in field conditions, this would raise new issues which would require further examination. Further measures might then have to be considered, including a ban on some porcine offals for human consumption.\textsuperscript{1731}

4.659 Dr Pickles sent a minute to Dr Metters and other members of DH on 10 September advising of the outcome of the SEAC meeting. She noted at the end of the minute that the full SEAC committee would meet on 19 September and ‘in view of Mr Gummer’s earlier commitments, we assume he will want to go public on the pig soon after, so the Tyrrell committee will also prepare a brief written statement’.\textsuperscript{1732}

4.660 Mr Meldrum minuted Mr Lowson on 11 September after receiving a copy of the SEAC minutes and said that ‘we should avoid dissemination of papers relating to this experimental finding to prevent premature release of this information’.\textsuperscript{1733} A minute from Mr Lowson to members of SEAC on 13 September stressed the ‘importance of maintaining the PERSONAL AND CONFIDENTIAL nature’ of the advice to ban SBOs in animal feed.\textsuperscript{1734}

4.661 On 18 September Dr Pickles sent out a further minute and said that she understood Mr Gummer wanted the forthcoming advice from SEAC publicly released on 21 September.\textsuperscript{1735}

4.662 SEAC met on 19 September 1990 and confirmed its previous advice of 7 September. Their formal advice was issued the following day:

Since this result shows that pigs can get spongiform encephalopathy, even though there is no evidence that they have done so in the field, we believe that pigs should no longer be fed with protein derived from bovine tissues which might contain the BSE agent, ie. those ‘specified’ bovine offals that are already excluded from human consumption. It would make sense to extend this prohibition to feed for all species, including household pets, as other species have now developed spongiform encephalopathies. We are aware that many animal feed compounders and pet food manufacturers are already applying such a ban on a voluntary basis.

As far as human health is concerned, however, we do not believe that this interim result requires any further action to be taken.\textsuperscript{1736}
SEAC’s advice and the Government’s decision to ban the use of SBO in all animal feed was not publicly announced until 24 September 1990. The press release announced the results of the experiment and then said:

The Tyrrell Committee has assessed the implications of these results. The Committee concluded that there were no new implications for human health as a result of this experiment.

The press release concluded with announcing that the Government had accepted SEAC’s advice and would be introducing a ban on using SBOs in animal feed. 1737

Press officer Ms Leonie Austin, in a minute on 20 September circulating the press release before publication, said:

By putting the results of the experiment further down the press notice we give the impression of a measured response and not a panic reaction which might be the case if we gave the Government’s response first. 1738

Mr Meldrum discussed in his statement to us the delay in the announcement of the transmission to the pig after SEAC’s initial meeting.

The information had been kept confidential since SEAC’s meeting on 7th September 1990 to enable preparations for the amendment of the legislation to be completed such that the introduction of the new legislation could be announced simultaneously. 1739

In oral evidence he said:

By way of background, to emphasise that point, I was aware, as my statements make clear, about this pig going down with an SE experimentally, a day or two before the SEAC – some time before the SEAC met. I was very keen indeed to make sure firstly that the Minister was advised, which he was; and secondly it was kept under wraps until we were ready to make a statement. You remember with the cat it leaked. There is nothing worse than having a leak of a scientific finding when you have not decided and have not had time to consult upon the response to that scientific finding. In this case, therefore, I intentionally kept this information under wraps, hence Mr Maslin’s comment about secrecy. Mr Lowson knew.

I told the Minister about it . . . He confirmed with me we must keep it under wraps until we have the advice from SEAC. I think that was a measured response to this new finding. 1740

On 25 September 1990, the Bovine Spongiform Encephalopathy (No.2) Amendment Order 1990 was introduced, banning the feeding of SBO to animals and poultry, and the sale and supply of SBO or feedstuffs containing SBO for feeding to animals and poultry. This is discussed in more detail in vol. 5: Animal Health, 1989–96.

1737 YB90/9.24/1.1–1.3
1738 YB90/9.20/3.1
1739 S184A Meldrum para. E52
1740 T132 pp. 94–5; see also comments in S184L Meldrum, referring to YB90/9.17/3.1 and YB90/9.19/7.1
Mr Lowson discussed the objective of the legislation in his oral evidence to us.

The policy objective underlying this is to deal with a disease control requirement. It is not that easy to define the disease control requirement in this case because we do not know whether we do need to protect human health by avoiding the spread of disease, or whether we are doing it to protect pig health, because at that stage we did not know whether even pig health or poultry health was a practical issue.

The rationale which I recall the SEAC Committee working towards at the discussions in September 1990, and which seemed to me to make sense and moderated the surprise that I felt that we talked about earlier on, was that if it is shown that there is an infectious agent which even in highly artificial conditions can infect a species, in this case a pig, even if it is not going to in normal circumstances have that result, it nevertheless makes sense to do as much as possible to minimise the amount of that agent to which that species might be exposed.^1741

The pig case was widely reported in the press on 25 September 1990. An article in the Financial Times entitled ‘Experiment shows pigs can catch BSE’ included comments from Mr Raymond Bradley.

Mr Ray Bradley, head of pathology at the laboratory (CVL) emphasised that inoculation with a large amount of infected material was a ‘totally unnatural route which could not by any stretch of the imagination occur in pig farming.’^1742

The newspaper Today, in an article titled ‘MAD SOW DISEASE – Midnight ban on all pet food as BSE hits pigs’, quoted Professor Richard Lacey:

This is a terrifying development . . . If a pig can be affected it can certainly affect humans.

The agent that causes BSE now appears to be capable of affecting pigs, mice, zoo animals and cats. That’s a large range of mammals and I think there’s a substantial risk for human beings.

Biologically, pigs are as near as you can get to us apart from monkeys.^1743

Professor Lacey was again quoted in a further article in the same newspaper as saying the ban on bovine products was at least a year too late and ‘until we know exactly what is in products like pies and sausages I would advise people not to eat them’. Chris Oberst, the Director-General of the MLC (1979–92) was also quoted:

The transmission in the experiment has been achieved by the most artificial means of brain-to-brain injection.

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^1741 T127 pp. 213–14, incorporating proposed revisions in S104H Lowson
^1742 YB90/9.25/15.1
^1743 YB90/9.25/15.2
The pigs in the experiment were 18 months old and you don’t eat pork when it’s 18 months old.\textsuperscript{1744}

Another \textit{Today} article called ‘Gummer’s last chance’ said:

There are two questions that must now worry everyone following the Government’s revelation of the first case of Mad Pig disease.

Will the brain-destroying virus spread even further? And will the Government still be insisting that there’s nothing to worry about when it does?

At every step of the way, the Government has done too little too late. It refused to compensate farmers properly for reporting Mad Cow infection.

It failed to ban offal in pet foods and poured scorn on the idea that the brain disease could jump across the new species barriers perhaps even to humans. Now, with the first Mad Pig, it has been forced into a virtual admission that the virus might affect any living animal.

The Government’s midnight ban was swift. But its long record of secrecy and delay leaves us troubled.

There is only one way to eliminate Mad Cow disease and that is to kill every animal that gets it – and all their calves too. But the Government will not slaughter the calves. Agriculture Minister John Gummer must change his stand. If he does not, confidence in Britain’s farming industry – and him – will quickly reach zero.\textsuperscript{1745}

\textbf{The ‘safety of beef paper’ and the dissemination of information on BSE by DH}

\textbf{4.672} As previously discussed in paragraph 4.574, SEAC endorsed the CMO’s statement on the safety of beef at a meeting on 17 May 1990. It then produced a letter and accompanying annex for the CMO on the safety of beef, discussed in detail in vol. 11: \textit{Scientists after Southwood}. In the letter finally produced by SEAC on 24 July 1990 members of SEAC confirmed their view that:

\ldots any risk as a result of eating beef or beef products was minute. Thus we believe there is no scientific justification for not eating British beef and that it can be eaten by everyone.\textsuperscript{1746}

\textbf{4.673} The letter summarised the rationale for this view and an annex expanded on this rationale. The letter noted (after comparing the similarities between scrapie and BSE):

The epidemiological evidence of a lack of association between scrapie and human disease appears to us to be secure. Therefore if BSE is exactly like scrapie, oral transmission (and any form of natural exposure) should not

\textsuperscript{1744} YB90/9.25/15.3
\textsuperscript{1745} YB90/9.25/15.3
\textsuperscript{1746} YB90/7.24/3.1–3.12
represent a hazard to man. Because the possibility that the agent might have changed cannot be dismissed, we agree that the measures that have already been taken in response to BSE in cattle are appropriate, although we do not believe on present evidence that any similar measures are necessary in the case of scrapie in sheep.

Oral transmission of some spongiform encephalopathies undoubtedly occurs – although very large doses are needed because the oral route is very much less efficient than, say, intracerebral inoculation.

4.674 The annex noted that the paper examined:

. . . the current safety for humans of the eating of British beef, including tissues derived from subclinically affected animals but with the ‘specified offals’ removed at the abattoir from all cattle over six months of age.

4.675 In the annex, the members of SEAC stated that:

. . . our own opinion based on our assessment of the available scientific evidence is that the BSE risk, if there is one, is so slight it can be ignored.

4.676 The CMO duly circulated the letter and report to all regional Directors of Public Health, stating:

I have pleasure in attaching the paper from the Spongiform Encephalopathy Advisory Committee (Tyrrell Committee) which sets out the scientific basis for the statement which I have made on this issue on the 16 May.

4.677 Dr Pickles, in a minute to the CMO, considered the uses to which SEAC’s statement might be put in a draft submission to Ministers in July 1990. She noted that if presented to the media in a controlled way, the report would be useful in providing reassurances to the public about BSE and the safety of beef and to DH and MAFF officials in handling routine correspondence. A CMO letter with a copy of the report was proposed for all Directors of Public Health and CEHOs, with a copy also to be given by the MAFF Minister to the Chairman of the Select Committee.

4.678 On 10 August 1990, Mr Lowson sent a minute to Mr Maclean, with copies to Mr Gummer, Mrs Attridge and Mr Capstick, on the ‘safety of beef’ report, stating:

I understand that the Chief Medical Officer is rather sensitive about its being widely publicised. Although a copy has been sent to the Clerk of the Agriculture Committee, Department of Health have not put out any kind of press notice and are circulating it at present only to regional directors of public health.

As I have indicated before, this document is one that could be useful in dealing with the criticism that the Government has not made public the
scientific basis of some of the assertions that it has made. It could therefore
be used quite widely, for example in the context of the briefing of consumer
organisations which the Minister proposed on 12 July. I think therefore it
would be helpful to make it clear that we would intend to use the document
perhaps more freely than the CMO proposes . . . 1751

4.679 On 27 September 1990, Mr Thomas Murray (Environmental Health and
Food Safety Division, DH) raised the issue of a wider distribution of the report by
DH in the context of concerns about the lack of knowledge of EHOs on BSE.
Mr Murray said:

I recently attended . . . a BSE briefing day . . . I was struck by how little EHOs
know about the subject and how even this was drawn from the national
media. As EHOs are in the front line in contact with the trade and the general
public, we might consider how we can help them with accurate and
authoritative briefing.1752

4.680 Dr Pickles replied to Mr Murray the following day and said she had ‘much
sympathy with the approach you outline’.

We decided some time back to leave MAFF in the lead in providing
information on BSE since there was a real chance any subtle differences in
material provided by the 2 departments would be exploited by the media. But
a few months back, I felt uneasy continuing that line and originated the
‘Safety of Beef’ document as our contribution particularly designed for
Directors of Public Health and EHO’s. As you know, I had intended that this
document would be readily available, with in addition to private circulation
from DH/MAFF, publication in Health Trends to make it accessible to the
medical community at large . . .

CMO had different views, and at first was not proposing to treat the ‘beef’
paper as anything other than private advice to him . . .

4.681 Dr Pickles said the CMO had suddenly arranged a limited circulation of the
paper, but that she sensed he ‘would not welcome further advice from me about a
wider distribution’. She concluded that the CMO’s response might be different to
suggestions made ‘up the administrative route’.1753

4.682 Mr Murray wrote to Dr Metters on 3 October 1990. He said:

BSE is primarily an animal health issue and it is right that, with a MAFF
lead, the veterinary service and farming community should be the main focus
for BSE information. However, DPHs,1754 CCDEs1755 and EHOs are in the
front line in dealing with public concerns over the human health implications
of BSE. In this group I detect some unrest over the lack of information going
out from DH to them.
4.683 He proposed ‘we would commit DH to ensuring a continuous flow of appropriate BSE information’. He did not see the task as being onerous, as material would be restricted to key documents.

This proposal if put into effect would have two benefits. It would equip important groups to answer queries on the public health aspects of BSE and so allay fears about food safety. It would also raise the profile of DH in its public health role and go some way to answering allegations that Government measures are only to protect the beef industry.\(^{1756}\)

4.684 Dr Metters responded to Mr Murray (with a copy to Dr Pickles) on 5 October 1990, stating:

1. . . . The subject you raise is a delicate one, in that, the more this Department assumes responsibility for press statements on BSE the greater the implication that somehow the disease poses a risk to human health. Every effort has thus far been made to underline the Government’s position, based on advice from the Southwood and Tyrrell Committees that the disease is not a risk to humans. That principle lies behind this Department’s low-key approach to publicity.

2. A further consideration is that we know that some DPHs, CDCCs etc are not fully supportive of the Government’s assessment of risk to human health. Indeed some have openly expressed their doubts and disagreement. One certainly does not want to provoke more vocal dissent from public health doctors working in the field.

3. . . . The Government has already been committed by Mr Gummer to a ‘no secrets’ approach to new information on BSE as it becomes available. I do not believe a separate commitment by DH is needed, indeed it would only serve to highlight my original concern that BSE should not be portrayed as a human health risk.

5. Having set out my reservations, I accept a wider circulation of MAFF press notices and briefing documents to health interests could reduce ignorance and misunderstanding, particularly on food safety questions.

6. I suggest the approach we should follow is to consider each press notice or other piece of advice . . . on its merits, and decide whether wider distribution to public health interests is appropriate. If so, a low-key ‘for information’ circulation would be made. I hope the occasions where the Department felt it necessary to put out its own press notice would be very rare.

One thing we must avoid is the public health field reaching the conclusion that this change represents a re-appraisal of the human health risk!\(^{1757}\)

4.685 We return to this matter in the discussion section below.

\(^{1756}\) YB90/10.03/3.1–3.2
\(^{1757}\) YB90/10.05/2.1–2.2
Government response to the report of the Agriculture Committee

4.686 We conclude our description by recording that the Government’s response to the Agriculture Committee’s report included the following:

2. . . . as regards the safety of eating British beef, paragraphs 32 and 33 of the Report set out a balanced and reasonable conclusion that is wholly consistent with the view expressed by the Chief Medical Officer in May that beef can be eaten safely by everyone.

. . .

Government response to food scares

33. The Report (Chapter IV) considers the Government’s campaign to reassure the public. It comments on ‘a rather haphazard response to the initial BSE scare’ and concludes that ‘there must be some more systematic and measured way of responding and we urge the Government to address this problem’ (paragraph 75).

34. When faced with ill informed and at times mischievous comments designed to arouse unjustified concerns about food safety, the Government inevitably must react immediately to correct alarmist and incorrect reporting. In dealing with a series of new angles on a developing story, it is difficult to avoid appearing to be reactive and, to an extent, ‘haphazard’. Government actions and reassurances are less attractive to the media than the attacks of the scaremongers. Elsewhere in this Report, of course, the Committee commends the Minister for being ‘robust and level-headed in maintaining his stance’.

35. The policy that has been followed is to publish relevant information and to explain this to interested journalists through individual or collective briefing by Ministry veterinarians and scientists. Such a briefing was arranged to deal with the cat case. In the immediate aftermath, the Chief Veterinary Officer continued to give interviews in order to put the significance of this development in its scientific context; and the Minister himself did not intervene with the media until the issue was clearly becoming political rather than scientific in nature. The timing of the Chief Medical Officer’s reassurance enabled him to assess whether the discovery of a feline encephalopathy had any bearing on human health.

36. In order to strengthen the organisation for dealing with food safety issues generally, MAFF was reorganised last year with the creation of a single Food Safety Directorate. This is under the day-to-day leadership of the Parliamentary Secretary with responsibility for food safety matters. A main thrust of the Food Safety Directorate’s work is its policy of openness with information of public interest and value. It has established a separate identity for press releases on food safety matters, an information bulletin to update consumer groups and others on food issues and regular meetings are held between the Parliamentary Secretary and consumer representatives through
a consumer panel. About half of the Ministry’s relatively small publicity expenditure is devoted to its food safety responsibilities.  

**Discussion of increasing public concerns in 1990**

4.687 In this section of our Report we look at increasing public concerns, and the public statements that were made about risk in the context of events in 1990. In Volume 1 of our Report we have discussed the perception of many that the public was deceived by Government about the risks posed by BSE and that information that suggested that BSE might pose a danger to human health was suppressed. The accusation has been levelled that MAFF put the interests of the farming industry before those of public health.

4.688 Our conclusion is that there was no deliberate deception of the public, nor after the early stages of the BSE story, was there suppression of information. The policy of openness promoted by Mr Gummer was applied within MAFF for the rest of the period covered by our Report. MAFF officials and Ministers none the less managed the manner and the timing of the release of information in an attempt to reduce its impact and thus to avoid ‘scare stories’. There were examples of this low-key approach in 1990.

4.689 We believe that the perception that Government misled the public about BSE has arisen not because of misinformation, nor because of concealment of information, but because of a failure on the part of many to appreciate the limited nature of the reassurances given by Government. Concerns about BSE led individuals to stop eating beef and some education authorities to cease serving beef in schools. MAFF officials and Ministers believed that this response was unwarranted. They sought to address public concerns not by giving reassurance that BSE posed no risk to humans, but by giving reassurance that it was safe to eat beef. This reassurance received support from the CMO and from SEAC. It was, however, only limited reassurance. It was predicated on the belief that precautionary measures had been taken which reduced a remote risk to a risk so negligible that any reasonable person would disregard it. Those measures were the slaughter and destruction of animals affected by BSE and the removal from the food chain of SBO of apparently healthy animals.

4.690 The majority of the public did not appreciate the basis upon which they were assured that it was safe to eat beef. They tended to equate the statement ‘beef is safe’ with ‘BSE is no danger’. The dialogue between Mr Martlew and Mr Gummer which we have recorded at paragraphs 4.625–4.626 gives an example of this misunderstanding. Some of the statements which gave rise to this misunderstanding were made in 1990.

**The significance of events in 1990**

4.691 The *Southwood Report* had advised that the risk that BSE posed to human health was remote. BSE was probably caused by the scrapie agent and could be expected to behave like scrapie. The SBO ban was presented by Government as a measure of extreme prudence that went beyond the recommendations of the scientists. So indeed it did. But the scientists who produced the *Southwood Report*
emphasised the paucity of the evidence upon which their conclusions were based, and the need to carry out research in order to learn more about BSE. Scientists in 1990 received further data of relevance to the assessment of the risks posed by BSE.

4.692 The successful oral transmission of BSE to mice by Professor Barlow was the first demonstration that BSE was orally transmissible from cattle to another species. As such the result supported the possibility that BSE might be transmissible to humans. It did not, however, add significantly to the likelihood of such transmissibility. This was because scrapie had been orally transmissible to mice in the same way. To those who believed that BSE would behave like scrapie, the result was no surprise and did not suggest that BSE would have a wider infective range than scrapie.

4.693 The same was not true of the oral transmission of BSE to cats. When the first cat was diagnosed with an SE, it was not clear that this had resulted from transmission of BSE, or indeed any transmission at all. Some, notably Mr Wells, concluded that the indications from the first case were that the cat had been infected from feed of cattle or sheep origin (see paragraph 4.518). Most were uncertain as to what conclusion to draw, as were the members of SEAC at its meeting on 17 May.

4.694 Mr Wells told us in a statement that Mr Meldrum telephoned him at home on a Sunday evening in May to discuss the implications of feline spongiform encephalopathy and that he expressed the personal view to Mr Meldrum that the discovery of FSE was probably of profound significance in relation to BSE and should lead to a complete ban on MBM entering the animal food chain. Mr Meldrum’s recollection was that this conversation took place later in the summer, when further cases of FSE had been diagnosed. He commented:

> Mr Wells believed that the cases in cats was in all likelihood connected with BSE because a number of cases by that time had been diagnosed and all had occurred in the same time frame as BSE. I had no reason to dispute Mr Wells’ opinion because I had been drawn to that very same conclusion.

4.695 The first case of FSE had indeed been followed by others. By the end of the year 12 had been diagnosed. The possibility of a link with BSE had become more probable.

4.696 If cats were being infected with BSE, or with the agent that caused BSE, this was cause for concern to those who drew comfort from the analogy with scrapie. While it had proved possible to transmit CJD to a cat by experimental cerebral inoculation, attempts to transmit scrapie in this manner and orally had been unsuccessful. If BSE had been transmitted to a cat, this suggested that a more virulent agent was at large than scrapie. Dr Pickles appreciated the significance of this possibility (see paragraph 4.500), as did Sir Donald Acheson (see paragraph 4.568). It seems to us, as it seemed to Dr Helen Grant (see paragraph 4.526) that the fundamental question was raised: if transmission to a cat, why not to a human? We are unaware of any ready answer to that question.
4.697 Mr Meldrum told us that the cases of FSE also led to increased concerns within MAFF at the risks posed by BSE. This concern led Mr Gummer to apply to the domestic market the requirement for removal of obvious nervous and lymphatic tissue that Brussels had imposed in relation to exports. A further cause for concern was the diagnosis of SEs in exotic species in zoos.\textsuperscript{1761}

**The low-key approach**

4.698 An example of the low-key approach to the release of information was the manner and timing of publication of the achievement of oral transmission of BSE to mice (see paragraph 4.481). MAFF’s press release came close to suggesting that such transmission was reassuring in that it strengthened the similarity to scrapie. This did not avoid the press reaction that had been feared, and MAFF’s response, as portrayed by the press, appeared defensive and unconvincing.

4.699 Another example of the low-key approach was the decision to cease publishing details of further instances of FSE, suggested by Mr Lowson to avoid ‘damage in terms of stirring up controversy’ (see paragraph 4.606).

**Mr Meldrum’s statements on risk**

4.700 We commend the statement on risk made by Mr Meldrum in his interview with *The Times* on 22 January 1990 (see paragraph 4.473). This drew the clear distinction between the risk that BSE posed to man and the risk from eating beef, and made it clear that it was impossible to be certain that there was no risk to man from BSE.

4.701 Mr Meldrum did not deal with questions about the significance of the cat in as satisfactory a manner. It seems to us that he took too much comfort in the assumption that there was unlikely to be a connection between the cat and BSE. Mr Lowson’s minute of 9 May 1990 had informed Mr Gummer about the discovery of SE in a cat, and had stressed the importance of not encouraging the public to jump to conclusions about the likely origin. This led to the Minister’s meeting of 10 May 1990, which Mr Meldrum attended. Mr Meldrum challenged the correctness of Mr Lebrecht’s minute, which recorded that he confirmed Mr Gummer’s assumption that there was no likely connection between the cat and BSE (see paragraph 4.502). He told us that he did not believe that he would have used the words ‘no likely connection’. He would probably have said there was ‘no known connection’ between the cat and BSE.\textsuperscript{1762} Mr Lebrecht’s minute suggests to us that it was Mr Gummer who used the phrase ‘no likely connection’ and that Mr Meldrum agreed with it. It would not have been a surprising question for Mr Gummer to ask, for Mr Lowson’s minute to him conveyed that impression (see paragraph 4.499). Mr Gummer confirmed that he left the meeting with the understanding that there was no likely connection between the cat and BSE.\textsuperscript{1763} We have concluded that Mr Lebrecht’s minute was an accurate record of the meeting.

4.702 We do not see that Mr Meldrum was in a position to advise on the likelihood of a connection with BSE without speaking to the CVL. Mr Wells had formed the view that the cat was likely to have contracted the disease as a result of eating

\textsuperscript{1761} T123 pp. 116–7
\textsuperscript{1762} T123 p. 104
\textsuperscript{1763} T128 pp. 13–23
infected material from cattle or sheep. Had Mr Meldrum learned of this view he would have been unable to be so sanguine. When giving evidence in Phase 2 Mr Meldrum accepted that it would be unjustifiable for Mr Gummer to have assumed that there was no likely connection between BSE and the cat. Mr Meldrum should not have acquiesced in that assumption.

4.703 The press reports suggest that in his public response to questions about the cat Mr Meldrum played down its potential significance to a greater degree than an objective appraisal would have justified. He himself accepted that it was putting the matter too strongly to say that the cat was no cause for concern at all. Mr Meldrum was entitled to express the view that Professor Lacey’s response to the cat was an over-reaction, but we do not think that it was fair to castigate the concerns he had expressed about the implications of the cat as ‘absolute nonsense’.

4.704 We recognise, however, the pressure that Mr Meldrum was under. He was faced with the likelihood that far more alarming conclusions would be drawn from the cat than were justified in the uncertainty that prevailed. His was not an easy task. With hindsight one can see that on this occasion, as on others, MAFF’s response would have carried more conviction had there been a concession of a limited degree of concern. We do not, however, think it fair to criticise Mr Meldrum for adopting in public the defensive stance that he did.

4.705 Events at and following the meeting of 10 May 1990 are discussed further in vol. 5: Animal Health 1986–1996.

Mr Gummer’s press releases

4.706 There is uncertainty on the evidence as to whether Mr Gummer met Dr Pickles on the afternoon of 15 May to discuss the statement that MAFF intended to make about the safety of beef. Neither recollected such a meeting. Mr Gummer’s evidence that one took place was founded on a minute that indicated such a meeting was planned. Dr Pickles said that she would not have agreed to a statement that beef was ‘perfectly safe’ knowing the views of the CMO and those of DH’s expert advisers. Sir Donald Acheson told us that he could think of no circumstances in which he would have approved the formulation ‘perfectly safe’.

4.707 In the light of this evidence, we think it unlikely that the planned meeting between Mr Gummer and Dr Pickles in fact took place. Despite the comments made on the use of the phrase ‘perfectly safe’, we would not criticise Mr Gummer in respect of the terms of his press release. Some time was taken at oral hearings discussing the distinction between ‘it is safe to eat beef’, ‘it is perfectly safe to eat beef’, ‘beef can be eaten with confidence’, ‘beef can be eaten with complete confidence’ and ‘there is no scientific justification for not eating beef’. None of those suggests any reservation about the safety of beef, and we do not believe that members of the public would have distinguished between them. While some found Mr Gummer’s statement lost conviction by over-emphasis, we would not criticise him for the terms of the press release.

1764 YB90/5.12/1.1 1765 T123 pp. 102–3 1766 T123 p. 132 1767 S115 Pickles para. 10 1768 See paras 531, 532 and 536
4.708 Mr Gummer’s press release put at the forefront the precautionary measures that had been taken to ‘ensure that the customer is reassured and protected’. It was in the light of the existence of those measures that it was claimed that beef could be eaten with complete confidence. The distinction was drawn between beef, which was ‘perfectly safe’ to eat, and BSE, which was ‘most unlikely to have an implications for human health’. These releases reflected the position as Mr Gummer reasonably understood it to be. We have no criticism to make of them.

Cordelia

4.709 No single attempt at communication of risk to the public made a deeper impression than Mr Gummer’s televised attempt to feed a beef-burger to his daughter Cordelia. This no doubt conveyed to any reasonable person the message that he was confident that it was safe to eat the beef-burger. We suspect, however, that the reaction of many was that it was distasteful for the Minister to involve his young daughter in a publicity stunt of this nature. The stunt was not Mr Gummer’s idea. He was, we believe, challenged by a newspaper to show his confidence in beef in this way. He no doubt feared some adverse press comment if he rejected the challenge. It may seem with hindsight that caught in a ‘no win’ situation, he chose the wrong option, but it is not a matter for which he ought to be criticised.

Sir Donald Acheson

4.710 We discuss the role of the CMO in Volume 1. He is the person to whom the Government and the public naturally look for objective and authoritative advice on risks to health. Mr Dorrell told us that on a matter of public health CMOs had a professional responsibility to make their own decisions about what they were and were not willing to say.\textsuperscript{1769} We believe that a CMO must take the greatest care that any statement made about a public health risk is, and is seen to be, objective and uninfluenced by any considerations other than the safety of public health.

4.711 MAFF Ministers and officials were concerned at the public reaction to the cat because of the damage that it was threatening to do to the beef industry. They did not believe that this was justified and were aware that the DH was also of the opinion that beef remained safe to eat. In these circumstances it was understandable that MAFF should have sought to persuade the CMO to make a public statement about the safety of beef.

4.712 The CMO’s concern was properly for the public, not for the beef industry. We consider that, faced with the degree of public concern that had been raised by the cat, it was appropriate for the CMO to make a public statement to address that concern.

4.713 Sir Donald Acheson expressed concerns to us that the language that he used when dealing with the safety of beef might not have been appropriate. The wording that Dr Tyrrell had approved by telephone on 15 May was ‘there is no scientific justification for not eating beef and beef can be eaten by adults and children with confidence’. Sir Donald said that he was unable now to remember why he substituted the word ‘safely’ for the phrase ‘with confidence’.\textsuperscript{1770} As we have
indicated, we do not find this change of any significance. Nor did Dr Tyrrell when he was asked about this. Sir Donald Acheson was also concerned that in his television interview he had said there was ‘no risk’, though he added:

it is for you to judge whether ‘no risk’ and ‘no scientific justification’ in terms of practical effect is similar. I personally think it is. 1772

4.714 We think so also.

4.715 Our concern about the statement made by Sir Donald is rather different. Sir Donald has told us:

My statement was made, as were Mr Gummer’s, on the confident assumption that the SBO ban was already fully implemented. 1773

4.716 In a subsequent statement, he added:

To safeguard human health against the risk of transmissibility, both the slaughter and compensation scheme [July 1988] and the ban on the consumption of the specified bovine offals [November 1989] had already been in place for some time. Accordingly, *even if* the BSE agent *was* transmissible to humans, as far as I was aware, all bovine tissue which might present any hazard in that circumstance was being removed from the human food chain at the slaughterhouse and was not available for consumption. I was therefore confident, having consulted with my external advisors, that such bovine material, or ‘beef’, as remained in the human food chain could be eaten safely by the public. 1774

4.717 Sir Donald told us that when on 9 May he heard from Dr Pickles of the cat he:

remained deeply concerned about the possible implications of a further transpecies ‘jump’ of BSE. 1775

4.718 Because of that concern he called an emergency meeting of SEAC.

4.719 In contrast to the press releases made by Mr Gummer, Sir Donald’s statement did not explain that his confidence in the safety of beef was premised on the removal of all SBO. It gave no indication of any concern about the cat. It was, we feel, a statement which was likely to convey the message not merely that ‘beef is safe’ but that ‘BSE is no risk to human health’. It seems to us that this was the meaning attributed to Sir Donald’s proposed statement by the Welsh Office and explains why they were not prepared to endorse it (see paragraph 4.579).

4.720 We do not consider that, as CMO, Sir Donald should have restricted his public statement in the way that he did. The development of an SE in a cat had raised a concern that BSE might be transmissible in a way that scrapie was not. Sir Donald was in no position to allay that concern. He avoided addressing it by limiting his statement to the safety of beef. He did not explain that he considered beef safe only
because the parts of the cow that might be infective were being removed from the food chain. His statement was likely to give false reassurance about the possibility that BSE might be transmissible to humans and we think that he should have appreciated this. In fact the possibility that BSE might have been transmitted to a cat was cause for concern and needed to be investigated by the scientists. He should then have explained that he believed that beef was safe to eat because of the precautionary steps that had been taken to guard against the possibility that BSE might be transmissible in food.

4.721 We appreciate that this conclusion applies to Sir Donald an exacting standard in a difficult situation. We believe, however, that such a standard is to be expected of the CMO when making a statement to the public. The trust that the public place on the objectivity of the CMO is a precious commodity. It calls for the greatest care when making a statement on any matter affecting the safety of public health.

4.722 The unqualified statement by Sir Donald that it was safe to eat beef was to set a precedent, as we shall see when we consider statements made by his successor. As time progressed, however, the Government was to introduce a series of further measures aimed at protecting the public from any risk that there might be from eating beef or beef products. These steps, coupled as they tended to be with the repeated message that it was safe to eat beef, gave a confused message to the public. If the previous message that it was safe to eat had been accurate, why was there a need to introduce further precautionary measures?

4.723 The truth was that the need for additional measures demonstrated that the premises upon which the previous assurances had been given had been shown to be open to doubt. The premises were that all tissue that might carry risk to humans was removed in the slaughterhouse. Thus, the result of the pathogenesis experiment, in 1994, demonstrated a possible risk from the intestines and thymus of calves less than 6 months old. These had previously been excluded from the SBO ban. In 1995, evidence that removal of spinal cord in the slaughterhouse was not always fully effective undermined the premise on which assurances about the safety of beef had been given. A ban on extracting MRM from the vertebral column was the result.

4.724 Had assurances about the safety of beef made clear the basis upon which they were given, it would have been apparent that those statements were qualified and not absolute. The public would then have been able to understand more readily the reason for the introduction of additional precautionary measures when this occurred and the fact that no absolute guarantee could be given that eating beef was without risk.

Dr Metters’s concern

4.725 In the context of risk communication, we turn from Sir Donald to his Deputy, Dr Metters. In October 1990 Mr Murray was anxious that the DH should be more active in giving information about BSE to those with responsibility for public health. Dr Metters’s response to this was to emphasise his concern ‘that BSE should not be portrayed as a human health risk’.

4.726 Happily, we do not recognise as an accurate statement of the position, even of DH alone, that part of Dr Metters’s response which said:
Every effort has thus far been made to underline the Government’s position, based on advice from the Southwood and Tyrrell Committees that the disease is not a risk to humans.\textsuperscript{1776}

4.727 Sir Donald Acheson had lent his strong support to the SBO ban and Dr Pickles and Dr Metters had played a diligent part in identifying those tissues that should be subject to that ban.

4.728 We must, however, criticise the message expressly set out by Dr Metters to Mr Murray and Dr Pickles as to the attitude of DH to the risk posed by BSE to human health. We cannot say what the effect of this message may have been. EHOs who enforced Regulations under the Food Safety Act 1990 in slaughterhouses looked to MAFF for guidance in relation to their duties, but EHOs who inspected butchers’ shops also had a role to play (see the discovery by an EHO of spinal cord in beef at a Birmingham butcher’s premises in 1996).\textsuperscript{1777} These and other EHOs involved in retail sale of meat and meat products looked to DH for guidance. While monitoring of such EHOs was not his responsibility, Dr Metters should have been keen to ensure that they appreciated the importance of the enforcement of the SBO ban rather than seeking to avoid suggesting that BSE posed a risk to human health.

Statements made by the MLC

4.729 The relevant statutory functions of the MLC are described in vol. 14: \textit{Responsibilities for Human and Animal Health}. They included promoting the merits and increasing the sales of livestock and livestock products. In carrying out their functions they were required to have regard to the interests of consumers as well as those of the producers.

4.730 Mr Colin Maclean served as Technical Director of the MLC from July 1988 to July 1992. He was then promoted to Director-General, a post which he held throughout the rest of the period with which we are concerned. Mr Maclean holds a Master’s degree in Veterinary Science and is a Fellow of the Royal College of Veterinary Surgeons.

4.731 Mr Maclean assisted the MLC to mount a vigorous publicity campaign aimed at reassuring the public that beef and beef products were safe to eat. That was a perfectly acceptable role to play, for the MLC could properly rely upon the public assurances given by MAFF and DH that this was the case.

4.732 The MLC’s duty to have regard to the interests of consumers as well as those of the beef industry meant, however, that it should be scrupulous in ensuring that any statements that were made to the public in relation to the safety of beef were accurate. For this the MLC relied upon Mr Maclean. He, for his part, looked for advice to what he described as an ‘informal network of scientific contacts’,\textsuperscript{1778} including Dr Kimberlin, who became a paid consultant of MLC in 1993, Dr Bradley, Mr Meldrum, Mr Kevin Taylor, Dr Danny Matthews and Dr Will.\textsuperscript{1779}

4.733 We have concluded that on a number of occasions the MLC, under the guidance of Mr Maclean, made inaccurate statements to the public that exaggerated...
the safety of beef and suggested that precautions that had been put in place were unnecessary. We are satisfied that there was no basis upon which Mr Maclean could reasonably believe that these statements were accurate.

4.734 The first occasion to which this criticism relates was the letter to the *Independent* of 16 January 1990,\(^{1780}\) for which Mr Maclean was personally responsible (see paragraph 4.465). It is an irony that he wrote to complain of suggested inaccuracies in an earlier article in the *Independent*. The statement that a human would have to eat an impossible amount of pure cow brain at the height of infection to reach an oral dose equivalent to that required to infect sheep or cows was spectacularly inaccurate. Mr Maclean has accepted that it was an ‘overstatement’.\(^{1781}\) In a supplementary statement, he has said that:

> advisers were telling me that it would require a very large amount of high titre tissues to pose any risk and that the controls imposed post-Southwood had effectively removed that risk.\(^{1782}\)

4.735 We do not believe that any of Mr Maclean’s informal advisers would have supported his statement about the amount of pure cow brain needed to infect. Dr Kimberlin certainly would not have done so and we have noted the view expressed to Mr Lowson by Mr Bradley in October 1990 that ‘a gram of infected cow could have a lot of infectivity’.\(^{1783}\) Mr Maclean did not believe that BSE was transmissible to humans, but that does not excuse this lack of accuracy. He should have exercised more care to ensure his statement was accurate.

4.736 Mr Maclean reverted to the question of dose in his video about beef that was to be circulated to local authorities (see paragraph 4.597). The material passage was:

> There has been some concern expressed about small amounts of brain and spinal cord getting onto the carcass in the abattoir.

> True enough, this may happen but it presents no threat. If this material was all infected – which it isn’t – then you would have to eat an impossible amount to put yourself at any risk.\(^{1784}\)

4.737 It seems to us that, giving the words their natural meaning, Mr Maclean was once again saying that ‘you would have to eat an impossible amount of brain and spinal cord to put yourself at any risk’. He has stated that he meant ‘an impossible amount of meat’.\(^{1785}\) The original draft for the video was unambiguous, for it continued:

> You would need to eat half your body weight in infected brain in just eight days. Imagine 8 kilos of brain a day. You would have to be force-fed. And with the offal ban, none of it should be infected anyway.\(^{1786}\)

4.738 Mr Maclean thought that these latter sentences were deleted at the suggestion of Dr Kimberlin.\(^{1787}\) At best the deletion substituted an ambiguity for a clearly

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\(^{1780}\) YB90/1 16/3.1
\(^{1781}\) T114 p. 14
\(^{1782}\) S147C Maclean para. 40
\(^{1783}\) YB90/10.11/8.5
\(^{1785}\) S147C Maclean para. 64
\(^{1786}\) YB90/5.22/28.4
\(^{1787}\) T108 p. 24
inaccurate statement. We consider that Mr Maclean should have been more careful to see that his statement to the local authorities was clear and accurate.

4.739 A further point arises in relation to this passage. It clearly suggested that contamination with spinal cord or brain in the slaughterhouse was no cause for concern. Yet at about the time that the video was being made, Mr Maclean appeared to be expressing concern to his Chairman about contamination from head and carcass-splitting (see paragraph 4.598). Mr Maclean has told us, however, that his concern was to avoid a problem of perception on the part of some supermarkets and consumers rather than to remove any real risk. He was concerned with presentation, not actual risk. We accept this explanation for what had appeared a conflict between Mr Maclean’s public statement and private thinking.

4.740 There was one further occasion in 1990 when Mr Maclean failed to exercise proper care to make sure that his public statements were accurate. We are not surprised that the press furor that followed the disclosure that a cat had contracted an SE provoked a strong press release from the MLC. Mr Maclean’s enthusiasm to rebut what he described as ‘alarmist stories and overblown claims’ led him to overblow his defence of beef.

4.741 His press release of 14 May stated that if no further action had been taken following the outbreak of BSE there was considered to be no risk to consumers from eating beef (see paragraphs 4.537–4.539). The release went on to refer to the requirement for notification, the slaughter and compensation ruling and the SBO ban and to state that any one of these should have been enough to remove any fears.

4.742 Mr Maclean described this press release as clumsy. We find that it inaccurately suggested that BSE presented no risk. We accept that Mr Maclean did not intend to suggest that it would have been safe to eat sick animals, but that is none the less the meaning of what he said.

4.743 It may be asked to what extent, amidst the barrage of media coverage and press releases, these inaccuracies on the part of MLC mattered. That is not a question anyone can answer. But MLC made these statements as part of a campaign to influence public opinion. The inaccuracies would have tended to foster a belief not merely that beef was safe, but that BSE posed no threat. To that extent they would have made their contribution to the perception in March 1996 that the public had not been told the truth.

The sequel to the cat

4.744 At its emergency meeting on 17 May 1990 SEAC concluded that there were three possibilities:

- the case was one of a feline disorder in its own right that had no association with BSE or scrapie
- it was a feline form of scrapie
- it was a feline form of BSE.
4.745 SEAC decided that it was premature to draw conclusions without further data.1789

4.746 On 13 June 1990, by which time two further cases of FSE had been identified, SEAC again considered the position. Specialists at the Bristol Veterinary School had by now indicated their belief that this was a new condition as opposed to one that had been previously recognised. SEAC concluded that it was still impossible to know how the condition had originated and that no conclusions could be drawn about the risk to human health until more was known. It was agreed that urgent research work was very important to establish its incidence, to seek evidence about its similarity to existing conditions, to establish whether or not it had occurred in the past and to determine whether it was transmissible.1790

4.747 FSE-to-mouse transmission studies were put in hand at the NPU. BSE-to-cat transmission experiments were considered, but rejected on ethical grounds.1791

4.748 By the end of 1990 FSE had been diagnosed in 12 cats.

4.749 By June 1991 the University of Bristol had results from transmission experiments which established that FSE was transmissible.1792 At their meeting on 28 June SEAC noted that after an ‘initial flurry’ few cases were being reported and suggested that consideration should be given to ways of stimulating reports of cases, so as to obtain a clear picture of the disease.1793

4.750 At its meeting on 6 September SEAC was given the statistics of reported and confirmed cases of FSE. It emphasised that it considered it important to have a ‘properly constructed study of FSE’.1794 Bristol University was keen to carry out such a study, but was having difficulty in obtaining funding.1795

4.751 By the end of 1991, 23 cases of FSE had been confirmed.

4.752 During 1992 Bristol University continued to seek funding in relation to research into FSE. MAFF declined to provide this on the ground that it would not further any MAFF policy objective. It also declined to provide samples of BSE-infected brain for experimentation on cats on ethical grounds.1796

4.753 By the end of 1992 the number of confirmed cases of FSE had reached 33.

4.754 In its September 1994 Report on transmissible spongiform encephalopathies (TSEs)1797 SEAC made the following comments on FSE:

When a cat was reported in 1990 to have succumbed to feline spongiform encephalopathy (FSE) the public and some scientists expressed some concern. But it was already known that this species was experimentally susceptible to CJD and had been used in the USA and Czechoslovakia for investigating the human disease.1798
The major pet food manufacturers voluntarily removed MBM and specified bovine and ovine offals from their products once the potential risks of infection of these tissues were recognised and before the SBO ban came into effect for humans in November 1989. However it is likely that some animals were infected before these measures were taken. No cats with confirmed disease were born after September 1990 when the SBO ban was extended to protect animals including cats from exposure.\textsuperscript{1799}

4.755 The section of the CVO’s report for 1995 dealing with BSE contained a paragraph on FSE. This stated:

An initial analysis of the descriptive epidemiological features of FSE in Great Britain was completed during the year. This involved the first 54 cases for which complete basic epidemiological data had been collected. The cases were distributed widely throughout Great Britain. Although there was a regional variation in the observed incidence this was consistent with a geographical variation in the ascertainment of cases because of local interest. There has been an apparent excess incidence in male cats, which could not be simply explained. In examining the possible sources and routes of infection, a feed borne source was most likely.\textsuperscript{1800}

4.756 By the end of 1995 the cumulative number of confirmed cases of FSE had reached 65. As to conclusions as to the human health implications of these, nothing was said. Mr Meldrum has summarised the position as follows:

SEAC neither came to any conclusions nor made any recommendations at their meeting on 17 May 1990.\textsuperscript{1801} Similarly, at their meeting on 13 June 1990\textsuperscript{1802} (by which time there were two confirmed cases) SEAC concluded that they were ‘in no position to offer advice on any human health implications’ and simply agreed that urgent research was needed. Whilst at subsequent meetings SEAC continued to receive updates on the FSE situation and discussed issues of surveillance and research, no specific observations or recommendations on the risk to humans were made. That remains the position to the present day.\textsuperscript{1803}

4.757 If, at the same time that BSE emerged, cats had begun to succumb to an SE as a result of food-borne infection, this would cast doubt on the comforting assumptions that the cause of BSE was a conventional scrapie agent and that BSE would behave like scrapie. It suggested that a more virulent agent was abroad. The case of the first cat did no more than raise the possibility of this, but by the end of 1990 the confirmation of 12 cases of FSE made this seem more probable.

4.758 By the time SEAC produced its Report on TSEs in September 1994 it had concluded that FSEs had been caused by consumption of SBO. In that Report SEAC ended with this conclusion:
Our scientific assessment is that the risk to man and other species from BSE is remote because the control measures now in place are adequate to eliminate or reduce any risk to a negligible level. We do however point out that any species exposed already and before any bans were effective could be incubating disease, and therefore continuous monitoring is very important until any possible incubation period has been exceeded. 1804

4.759 There had been, we suggest, a significant shift from the risk evaluation of the Southwood Working Party. This was not something of which the public was aware. One can well understand why it was not thought desirable to point out to the public that the Government’s scientific advisers believed that some of them might be incubating a human form of BSE. However, the failure to point this out when emphatic statements were made about the safety of beef led the public to perceive in March 1996 that it had been deceived about the risk posed by BSE.
Annex 1 to Chapter 4: Unfit meat and human food

4.760 The following section describes the regulatory measures preventing meat which was unfit for human consumption from entering the human food chain. For this purpose it is desirable to look at the position before and after the introduction of the Meat (Sterilisation and Staining) Regulations 1982 (1982 MSSR).1805

Protections against unfit meat entering the human food chain prior to 1982

Licensing of slaughterhouses and knacker’s yards

4.761 A first protection was the requirement that any premises used as slaughterhouses or knacker’s yards be licensed under the Slaughterhouses Act 1974. The use of any place for slaughtering animals, whose flesh was intended for human consumption, was an offence unless that place was licensed as a slaughterhouse. The use of any premises in connection with the business of slaughtering, flaying, or cutting up animals, whose flesh was not intended for human consumption, was an offence unless those premises were licensed as a knacker’s yard. By section 12(1) of the Food and Drugs Act 1955 it was an offence to sell for human consumption any part of, or product derived wholly or partly from any animal slaughtered in a knacker’s yard or whose carcass was brought into such a yard.1806

Admission of animals and carcasses to a slaughterhouse

4.762 The Slaughterhouses (Hygiene) Regulations 19771807 imposed two restrictions upon the admission of live animals to a slaughterhouse. First, there was a prohibition whereby a person who knew or suspected any animal to be either diseased or injured was not to bring that animal or permit that animal to be brought into the slaughterhouse.1808 This prohibition did not apply in the event that the animal in question was accompanied by a veterinary certificate1809 and was either slaughtered without delay or taken to a part of the slaughterhouse lairage provided for the isolation of such animals.1810

4.763 The veterinary certificate was required to identify the owner of the animal, to describe the animal and any identification marks, to identify the date and time of the clinical examination and to contain a statement as follows:

\[\text{1805 L17 tab 15 and at L1 tab 5; imported meat is not dealt with in this discussion}\]
\[\text{1806 L11 tab 20}\]
\[\text{1807 L1 tab 3C}\]
\[\text{1808 L1 tab 3C Regulation 19(1). By Regulation 2 ‘animals’ meant cattle, swine, sheep, horses, and goats}\]
\[\text{1809 Such a certificate was not required in certain specific circumstances: see Regulation 19(1)(a)}\]
\[\text{1810 L1 tab 3C Regulation 4 provided that the arrangement of the lairage should include a lockable pen in which animals diseased or injured, or suspected of being diseased or injured, might be isolated from other animals}\]
It is my opinion, after making due enquiries and taking and testing any necessary samples, that this animal is not affected with any disease or condition liable to render the whole carcass unfit for human consumption and to the best of my knowledge and belief has not received any medicament, antibiotic or chemotherapeutic which might do likewise.\textsuperscript{1811}

4.764 Second, there was a prohibition on the bringing in to a slaughterhouse of an animal which was not intended for human consumption.\textsuperscript{1812} This prohibition did not apply to working dogs (in certain circumstances) and horses.

4.765 Further, there were restrictions on the admission of carcasses. First, there was a prohibition whereby no person was to bring, or permit to be brought, into the slaughterhouse the carcass of an animal which had died or had been killed and not bled.\textsuperscript{1813} This prohibition was subject to an exception where an animal died in transit to the slaughterhouse, but in that event the carcass was to be removed from the slaughterhouse immediately following the carrying out of any necessary examination. The result was that only the carcass of an animal that had been killed and bled could be brought into, and remain at, a slaughterhouse. Even this was subject to certain requirements affecting undressed and dressed carcasses respectively.\textsuperscript{1814}

4.766 In the case of an undressed carcass, such a carcass was required to be accompanied by a veterinary certificate upon being brought into the slaughterhouse.\textsuperscript{1815} This certificate was required to identify the owner of the carcass, to describe the carcass and any identification marks, to identify the reason for the slaughter of the animal and to contain a statement as follows:

It is my opinion, after making due enquiries and taking and testing any necessary samples, that the animal from which this carcass was produced was not affected with any disease or condition liable to render the whole carcass unfit for human consumption and to the best of my knowledge and belief had not received any medicament, antibiotic or chemotherapeutic which might do likewise.\textsuperscript{1816}

4.767 In the case of a carcass being admitted already dressed, that carcass was required to be accompanied by either:

\begin{enumerate}
  \item a certificate certifying that the carcass and its offal had been inspected and passed fit for human consumption; or
  \item its offal, including the stomach and intestines, and a veterinary certificate in the same terms as that required for an undressed carcass (see above).\textsuperscript{1817}
\end{enumerate}

4.768 Further information concerning the Slaughterhouse (Hygiene) Regulations 1977 is to be found in Chapter 10 of this volume.

\begin{itemize}
  \item \textsuperscript{1811} L1 tab 3C schedule 1 para. 1
  \item \textsuperscript{1812} L1 tab 3C Regulation 22
  \item \textsuperscript{1813} L1 tab 3C Regulation 19(2). By Regulation 2 ‘carcasses’ included parts of carcasses
  \item \textsuperscript{1814} Unless the animal in question had been the subject of an ante-mortem inspection, and other requirements were met, fresh meat from such a carcass could not be exported
  \item \textsuperscript{1815} L1 tab 3C Regulation 19(3) where an exception is set out for the undressed carcass of a sheep or lamb in certain circumstances
  \item \textsuperscript{1816} L1 tab 3C schedule 1 para. 2
  \item \textsuperscript{1817} L1 tab 3C Regulation 21
\end{itemize}
Determination in a slaughterhouse of fitness of meat for human consumption

4.769 In an export slaughterhouse an animal could not be slaughtered for human consumption unless it had passed an ante-mortem health inspection. However, no such requirement applied to animals slaughtered in a domestic slaughterhouse.

4.770 In both domestic and export slaughterhouses there were requirements for the dressing of carcasses, for post-mortem inspection to determine fitness for human consumption, and for the marking of meat which had been passed as fit for human consumption. These requirements are described in Chapter 2 of vol. 13: Industry, Processes and Controls.

4.771 In summary, if inspection revealed that the animal was suffering from any of certain specified diseases, the whole carcass and all the offal and blood removed from it, was to be declared unfit. Certain specific diseases or conditions (such as some forms of tuberculosis), did not, if identified, require the whole carcass and all the offal and blood to be declared unfit, but only those parts specified in the Regulations. In addition, where the inspector or authorised officer was satisfied that the whole or any part of a carcass or any offal was affected by any other disease or condition, he was to regard as unfit for human consumption the whole carcass and the offal or such lesser part thereof as he thought appropriate in the circumstances.

Sterilisation of unfit meat at the slaughterhouse

4.772 Under the Meat (Sterilisation) Regulations 1969 a number of restrictions were imposed upon the way in which knacker meat and meat unfit for human consumption could be dealt with. In each case ‘meat’ was defined to include offal and fat and any product of which a principal ingredient was meat. Subject to certain exceptions, these restrictions applied so long as the ‘meat’ in question had not been sterilised. ‘Sterilised’ was defined as meaning treated by boiling or by steam under pressure until every piece of meat was cooked throughout, or dry-rendered, digested or solvent-processed into technical tallow, greases, glues, feeding meals or fertilisers.

4.773 Enforcement powers were given to authorised officers of local authorities. ‘Local authority’ was defined under the Food and Drugs Act 1955 as meaning, as respects any borough and any urban district or rural district, the council of the borough or district.

4.774 ‘Authorised officer’ was defined (also under the Food and Drugs Act) as meaning an officer of the council authorised by them in writing, either generally or specially, to act in matters of any specified kind or in any specified matter, and, for the purpose of taking samples, included a police constable so authorised with the...
approval of the police authority concerned. In order to be authorised to act in relation to the examination and seizure of meat an officer was required to be either:

i. the medical officer of health;

ii. a sanitary inspector;

iii. a member of the Royal College of Veterinary Surgeons (RCVS) employed for the purpose of inspection of food, or

iv. a person having such qualifications as may be prescribed by Regulations made by the Ministers.

4.775 The medical officer of health and the sanitary inspector of a council were to be deemed authorised officers by virtue of their appointments. A member of the RCVS employed for the purpose of inspection of food was to be deemed authorised for the purpose of examination and seizure of meat under the provisions of Part I of the Act relating to food unfit for human consumption.

4.776 As regards the restrictions imposed by the 1969 Regulations, first, the occupier of a slaughterhouse was prohibited from causing or permitting to be removed from the slaughterhouse, and any person was prohibited from removing from a slaughterhouse, any meat which was unfit for human consumption, unless that meat had first been sterilised.

4.777 Second, the occupier of a knacker’s yard was prohibited from causing or permitting to be removed from the knacker’s yard, and any person was prohibited from removing from a knacker’s yard, any meat, unless that meat had first been sterilised.

4.778 Each of these prohibitions was subject to exceptions for removal:

i. to any hospital, medical or veterinary school or similar institution for instructional or diagnostic purposes or to any manufacturing chemist for the manufacture by him of pharmaceutical products;

ii. to any processor for sterilisation by him, or to any zoological garden, menagerie, mink farm, or trout farm, or to any person by arrangement in writing with an authorised officer for preparation before further removal to any processor or manufacturing chemist or for storage if such meat is in each case removed in a vehicle or impervious container which is kept closed and locked at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer and which bears a notice of adequate size which was conspicuously visible containing a distinct, legible and unambiguous statement to the effect that the meat was not for human consumption.

A further exemption is described in paragraph 4.781 below.

4.779 Thirdly, it was an offence for any person to possess for the purpose of sale or preparation for sale butcher’s meat which was unfit for human consumption or

1824 L11 tab 20 section 86(1)
1825 L11 tab 20 section 86(4)
1826 L11 tab 20 section 86(2)
1827 L11 tab 20 section 86(3)
1828 L17 tab 14 Regulation 4. This prohibition was subject to a defence of reasonable diligence
1829 L17 tab 14 Regulation 5. By contrast with the case of unfit meat, there was no defence of reasonable diligence
1830 L17 tab 14 Regulation 6
knacker meat unless that meat had first been sterilised. Butcher’s meat was defined as meaning meat from any animal slaughtered in the UK for sale for human consumption. Knacker meat was defined as meaning meat from any animal slaughtered in, or carcass brought into, a knacker’s yard in the UK. The Regulations provided for two defences to proceedings for contravention of this prohibition. It was a defence for an individual to prove either:

i. that he did not know and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption or, as the case may be, was knacker meat; or

ii. that he had made arrangements for it to be sterilised without any unnecessary delay.

4.780 There was exempted from this prohibition any meat:

i. in any slaughterhouse or knacker’s yard;

ii. subject to certain requirements, in the possession of any person while in transit from a slaughterhouse or knacker’s yard to:

   a. any processor;

   b. any zoological garden, menagerie, mink farm or trout farm;

   c. any person by arrangement in writing with an authorised officer for preparation before removal to any processor or manufacturing chemist;

iii. in the possession of any person while in transit from a slaughterhouse or knacker’s yard to any hospital, medical or veterinary school or similar institution for instructional or diagnostic purposes or to any manufacturing chemist for the manufacture by him of pharmaceutical products;

iv. on the premises:

   a. of any processor for sterilisation by him;

   b. of any manufacturing chemist for the manufacture by him on those premises of pharmaceutical products;

   c. of any zoological garden, menagerie, mink farm or trout farm;

   d. subject to certain requirements, of any person by arrangement in writing with an authorised officer for preparation before removal to any processor or manufacturing chemist or for storage on those premises;

1831 L17 tab 14 Regulation 7
1832 L17 tab 14 Regulation 2(1)
1833 L17 tab 14 Regulation 2(1)
1834 L17 tab 14 Regulation 7(1)
1835 L17 tab 14 Regulation 7(2)
1836 These requirements were that in each case the meat was removed in a vehicle or impervious container which is kept closed and locked at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer and which bears a notice of adequate size and conspicuously visible containing a distinct, legible and unambiguous statement to the effect that the meat is not for human consumption
1837 These requirements were that the person’s arrangements are suitable and sufficient for ensuring that the meat is kept segregated from other meat and he does not part with possession of the meat otherwise than on its destruction or delivery or consignment to a processor or manufacturing chemist in a vehicle or impervious container which is kept closed and locked and at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer and which bears a notice of adequate size and conspicuously visible containing a distinct, legible and unambiguous statement to the effect that the meat is not for human consumption
e. in transit to the premises of any processor or manufacturing chemist in a vehicle or container in accordance with (iv)(d) above.

4.781 This prohibition, along with the first two prohibitions described above, was subject to an exemption where there were no facilities for sterilisation in a slaughterhouse or knacker’s yard. In that event those prohibitions did not apply as respects any meat removed from that slaughterhouse or knacker’s yard by arrangement in writing with an authorised officer to a place where it would be sterilised. 1838

4.782 Fourthly, no person was permitted to sell, or offer or expose for sale, by retail, any butcher’s meat which was unfit for human consumption or knacker meat unless that meat had first been sterilised. 1839 It was a defence to proceedings for contravention of this prohibition for an individual to prove that he did not know and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption or was knacker meat. 1840

4.783 All of the above restrictions were subject to the application of provisions from the Food and Drugs Act 1955 as follows: 1841

i. section 113 provided that a person against whom proceedings were brought was entitled to bring before the court in proceedings any person to whose act or default he alleged that the contravention of the provisions in question was due and prove that the contravention was due to the act or default of that person;

ii. section 115(2) imposed restrictions upon the circumstances in which it was possible for it to be a defence in a set of proceedings that a warranty had been given that any article or substance could be lawfully sold or dealt with under the name or description or for the purpose under or for which it was sold or dealt with;

iii. section 116 set out offences of applying to an article or substance a warranty or certificate of analysis given in relation to another article or substance and of giving of a false warranty in writing, and provisions relating to those offences; and

iv. section 108(1)(b) provided that proceedings under section 116 had to be commenced within 12 months. 1842

4.784 The 1969 Regulations required that any person responsible for the consignment or delivery of any butcher’s meat which was unfit for human consumption or knacker meat, in any of the circumstances covered by the Regulations, was to give or send with the meat to the person by whom or on whose behalf the meat was to be received a notice. That notice was to bear information relating to the meat including particulars of the date of its consignment or delivery, the quantity and description of it and the respective names and addresses of the person responsible for its consignment or delivery and of the person by whom or on whose behalf it was to be received. 1843 The person responsible for the consignment was required to retain a copy of the notice and the person by whom or on whose

1838 L17 tab 14 Regulation 8(1)
1839 L17 tab 14 Regulation 11
1840 L17 tab 14 Regulation 11
1841 L17 tab 14 Regulation 16
1842 See also L11 tab 20
1843 L17 tab 14 Regulation 12(1)
behalf the consignment was received was required to retain the original. In each case, the notice was to be retained for three months after the date of the consignment and be produced for inspection to an authorising officer upon his request. 1844

4.785 An authorised officer had, at all reasonable times, a power to examine any meat not intended for human consumption which had been sold, was offered or exposed for sale or was in the possession of, or had been deposited with or consigned to any person for the purpose of sale or preparation for sale. The authorised officer had a further power to seize the meat and remove it in order for it to be dealt with by a Justice of the Peace (JP), if it appeared to the authorised officer that the meat either:

a. is required to be sterilised, but it has not been sterilised; or

b. is required to bear but does not bear a notice. 1845

4.786 Having seized any meat under this power, the officer was required to inform the person in whose possession the meat was found of his intention to have it dealt with by a JP. 1846 Anyone liable for prosecution under the terms of the Regulations was entitled, if he attended before the JP, to be heard and to call witnesses. 1847 If it appeared to the JP that the meat brought before him, whether seized under the provisions of this Regulation or not, was meat to which the Regulations applied and was required to be but had not been dealt with in accordance with those Regulations, he was required to condemn it and order it to be destroyed or to be so dealt with. 1848 In the event that a JP refused to condemn any such meat, the council was required to compensate the owner of the meat for any depreciation in its value resulting from its seizure and removal. 1849

4.787 The Regulations also provided that if an authorised officer had reason to suspect that any vehicle or container contained any meat to which the Regulations applied and which was intended for sale or was in the course of delivery after sale, then he had a power to examine the contents, and, if necessary, detain the vehicle or container 1850 (subject to exceptions in the case of certain vehicles). 1851 In the event that he found any meat which was required to be but was not dealt with in accordance with the Regulations, the authorised officer was able to seize the meat and remove it as set out at paragraph 4.785 above.

Concerns of Environmental Health Officers in 1977

4.788 In 1977 the Environmental Health Officers Association published a report by their Working Party on Slaughterhouse Hygiene chaired by Mr F G Sugden. 1852 Among the recommendations made in the report were the following:

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1844 L17 tab 14 Regulation 12(2)
1845 L17 tab 14 Regulation 13(1)
1846 L17 tab 14 Regulation 13(2)
1847 L17 tab 14 Regulation 13(2)
1848 L17 tab 14 Regulation 13(3)
1849 L17 tab 14 Regulation 13(4)
1850 L17 tab 14 Regulation 14(1)
1851 L17 tab 14 Regulation 14(2)
1852 M22A tab 11

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419
i. the particular needs for dealing with casualty animals be given further examination (paragraph 3.9);

ii. legislation requiring the ante-mortem inspection of animals be introduced for the domestic trade (paragraph 11.5);

iii. further investigations to be made to develop an acceptable uniform system of meat inspection recording (paragraph 11.10); and

iv. an investigation be made into meat inspection requirements as specified by Regulations currently in force with a view to assessing the most effective system for controlling meat hygiene and safety (paragraph 11.13).

4.789 The report noted that an increasing health hazard arose from the fact that certain items (eg head meat) may have either an industrial or human food outlet. It stated:

Whilst there is no objection to material handled throughout in hygienic fashion being ultimately relegated to industrial processing the converse is not the case. Where such a commodity has ostensibly left the slaughterhouse for industrial processing and a decision during transit or on arrival is taken to restore it to the edible market, danger arises from the intermediate substandard handling. This is further discussed in the section on by-products and attention is drawn to the Working Party’s recommendation that a material once classified as inedible should be handled throughout, to final processing, in accordance with the Meat Sterilisation Regulations, 1969.\textsuperscript{1853}

4.790 Concern as to what might happen after completion of the meat inspection process was repeated in paragraphs 16.23–16.28:

16.23 The system described by the Working Party in which sound stock is safely processed under hygienic conditions and full-time expert supervision would be brought to nought if some of the products of such a system were allowed to return unchecked to farm, kennel or stable. The law subscribes surprisingly little to this view, beyond limiting the removal of raw material, unfit or not intended for human food, from slaughterhouses and knackers’ yards and prescribing, in the case of statutory seizure and submission to a magistrate, a procedure for destruction or prohibition of sale for food. This latter situation rarely arises as the vast majority of unfit meat is dealt with informally on the basis of its voluntary surrender to the local authority. To avoid doubts as to ownership and the destruction or disposal of unfit meat the local authority may agree to purchase such material from the owner.

16.24 It is in the context of voluntary action or advice tendered by the local and central authorities that the vast majority of industrial utilisation of unfit and inedible (including surplus) materials from the slaughtering industry takes place. Current public opinion, however, is not satisfied to hear that even marginal amounts of hazardous or toxic material escape effective treatment. In this context the hazardous materials are the agents responsible for the spread of zoonoses; the pollutants are the odorous volatile substances emanating from heat treatment necessary for safe re-cycling of the organic chemical constituents of slaughterhouse wastes.
16.26 The real hazards arise not only from materials which may get out of course, but from materials which may legitimately be handled raw, e.g. direct to feed certain animals and from lack of appreciation in the processing industry of the risks of cross-infection between the raw and finished product sides of their plant.

16.27 Comments on hazards arising from the dual nature of certain slaughterhouse surpluses have already been made but an unsatisfactory situation can arise when on the same site edible and inedible processing takes place. Even though plant personnel may be separated there is no firm sanction to require segregated provision of sanitary and ablution facilities – a vulnerable point of cross-infection – and ‘decontamination’ of personnel on movement from ‘dirty’ to ‘clean’ sections.

16.28 A complete prohibition of such mixed processing on the same site would appear a simple solution until one examines the effect both on the factory abattoir complex and the economics of by-product utilisation.\textsuperscript{1854}

\textbf{4.791} These concerns were reflected in two further recommendations:

\textbf{i.} The disposal of unfit, inedible and surplus materials from slaughterhouses be further regulated so as to ensure:

\begin{itemize}
  \item a. that the application of the Meat Sterilisation Regulations to all such materials be beyond doubt;
  \item b. that where edible and inedible processing is conducted on the same site adequate segregation of plant, personnel and welfare facilities be required, including facilities for decontamination before moving to edible from inedible areas;
  \item c. that arrangements for disposal of such materials be subject to prior approval by the local authorities in despatch and reception areas and that copies of the consignment notes required by the above Regulations to accompany the materials be supplied also to the respective authorities (paragraph 16.29).
\end{itemize}

\textbf{ii.} That an appropriate Code of Practice be produced in consultation with the industries concerned to provide for acceptable methods of collection, storage, distribution and processing of industrial and pharmaceutical products of animal origin (paragraph 16.30).\textsuperscript{1855}

\textbf{‘Operation Meathook’}

\textbf{4.792} Concerns were increased following the uncovering of an illegal market in unfit meat and knacker meat in 1980 as a result of ‘Operation Meathook’.\textsuperscript{1856} Enquiries which initially commenced in the London Borough of Hammersmith and Fulham led to the discovery of a nationwide fraud in which knacker meat was being substituted for beef in the catering and food manufacturing industries.
A number of factors were believed to have lead to and assisted this fraud. The Chartered Institute of Environmental Health provided to the Inquiry a synopsis of ‘Operation Meathook’ which included the following summary:

At this time there were more knacker’s yards operating than there are now and farmers were paid a reasonable price for sick, injured and fallen stock. When the fraud was discovered, price for fallen stock had reached an all-time high.

Control was exercised by local authority employees, environmental health officers and authorised meat inspectors. The meat from knacker’s yards was processed primarily for the animal food industries. The staining of this meat was rigorously opposed by the Pet Food Industry, in particular as marketing a stained product was difficult. Local authority officers spent little time supervising these operations as the food produced was not intended for human consumption. All operators of knacker’s yards were obliged to keep records of the stock they picked up, its origin and description. Due to the calibre of operative and the nature of this operation, these records were difficult to police. Equally, details of the amounts paid for stock were difficult to access by local authority officers, due to the way farmers ‘prefer to do business’. Veterinary certification was infrequent as the cost of consulting a vet was often more than the value of the stock item.

The findings of ‘Operation Meathook’ led the Environmental Health Officers and others to lobby for changes to legislation to make the sale of unfit meat more difficult if not impossible.

Meat (Sterilisation and Staining) Regulations 1982 (the 1982 MSSR)

Overview of changes

Changes were brought into effect by the introduction of the 1982 MSSR. The principal changes were:

i. staining was reintroduced as an alternative to sterilisation;

ii. different measures were required for different categories of meat and offal; and

iii. a new system of movement permits intended to assist in tracking unfit meat was introduced.

The precise changes are set out in more detail below.
Detailed provisions

4.796 The 1982 MSSR revoked the 1969 Regulations. They applied to particular categories of ‘meat’ (including ‘offal’), and required, unless certain exceptions applied, that the meat or offal in question be:

i. sterilised;

ii. subject to restrictions on removal, prior to sterilisation;

iii. not sold, prior to sterilisation; and

iv. subject to restrictions on storage and freezing, prior to sterilisation.

One of the exceptions available in certain cases required that the meat or offal in question be stained. The discussion below deals first with the relevant categories of meat and offal, second with the procedure for staining and sterilisation, third with the requirements of the Regulations and the exceptions to those requirements, and fourth with the enforcement of the Regulations.1861

Categories of meat and offal

4.797 The 1982 MSSR defined ‘meat’ to mean carcass meat, poultry meat, and offal. Each of these terms was itself defined in the Regulations, and for present purposes the first and third are relevant:

i. ‘carcass meat’ was defined as the flesh of an animal, including thick or thin skirt, and heads of cattle or swine, but excluding offal; and

ii. ‘offal’ was defined as including separate pieces of fat, but not including thick or thin skirt, heads of cattle or swine, or poultry offal.

Also relevant is the definition of ‘knacker meat’ which was defined as carcass meat and offal from an animal slaughtered in, or from a carcass brought into, a knacker’s yard situated in the UK.1862

4.798 Two specific categories of offal were defined in the 1982 MSSR:1863

i. ‘green offal’ was defined as stomachs and intestines derived from animals and the contents of such organs; and

ii. ‘specified offal’ was defined as hearts, kidneys, livers and lungs derived from an animal and which, in the case of an animal in a slaughterhouse, had been rejected as unfit for human consumption under the relevant provisions for that purpose.1864

4.799 For the purposes of the 1982 MSSR, the following categories of meat were to be presumed, until the contrary was proved, to be unfit for human consumption:

i. knacker meat;1865

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1861 The 1982 MSSR applied to poultry and to imported meat but for ease of exposition this is not described below
1862 L17 tab 15 Regulation 3
1863 L17 tab 15 Regulation 3
1864 Namely, by reason of any disease or condition referred to in schedule 2 to the Meat Inspection Regulations 1963 or in Part VI of schedule 8 to the Fresh Meat Export (Hygiene and Inspection) Regulations 1981 by a person authorised under the Food and Drugs Act 1955 to act in relation to the examination of meat (see para. 4.781 above)
1865 L17 tab 15 Regulation 4
ii. meat from any variety of cattle, sheep, pig, equine animal or goat, which had
died or been slaughtered in any place other than a slaughterhouse or knacker’s
yard, or which has been brought to such a place after having died or been
slaughtered.\textsuperscript{1866}

iii. meat which had not been handled or kept in a slaughterhouse in a hygienic
manner.\textsuperscript{1867}

\textbf{Sterilisation}

\textbf{4.800} ‘Sterilisation’ was defined as being either:

i. treated by boiling or by steaming under pressure until every piece of meat is
cooked throughout;

ii. dry-rendered, digested, or solvent processed into technical tallow, greases,
glues, feeding meals or fertilisers; or

iii. subjected to another process other than those previously described in this
definition which results in all parts of the meat no longer having the appearance
of raw meat and which inactivated all vegetative forms of human pathogenic
organisms in the meat.\textsuperscript{1868}

\textbf{Staining}

\textbf{4.801} The 1982 MSSR defined ‘stained’ to mean treated with a solution of the
colouring agent Black PN or Brilliant Black BN (E151, Colour Index 197
No. 28440), the solution to be of such a strength that the colouring on the stained
meat is clearly visible. The definition added that for this purpose ‘treated’ meant
that all pieces of meat not smaller than primal cuts had been opened by multiple and
deep incisions, and the whole surface of the meat had been covered with a solution
as aforesaid either by immersing the meat in, or spraying or otherwise applying, the
solution.

\textbf{Requirements and exemptions: permitted destinations}

\textbf{4.802} The availability of some exceptions depended on whether it was intended to
remove meat or offal to particular destinations. These destinations were listed in
Regulation 17(1) as follows:

i. a hospital, medical or veterinary school, laboratory or similar institution for
instructional or diagnostic purposes, a rennet manufacturer or a manufacturing
chemist for the manufacture of pharmaceutical products;

ii. the premises of a processor for sterilisation by him;

iii. a zoological garden, menagerie, mink farm, maggot farm or greyhound kennels
licensed by the National Greyhound Racing Club;

iv. the premises of a waste food processor licensed under the provisions of the
Diseases of Animals (Waste Food) Order 1973 to receive unprocessed waste

\textsuperscript{1866} L17 tab 15 Regulations 4 and 13(1)
\textsuperscript{1867} L17 tab 15 Regulation 4
\textsuperscript{1868} L17 tab 15 Regulation 3
food and in addition authorised in writing by the issuing authority\textsuperscript{1869} to receive unsterilised meat to which these Regulations apply; or

v. the premises of a person for preparation prior to further removal to a processor or manufacturing chemist or for storage before further removal to another destination referred to in this paragraph.\textsuperscript{1870}

**Requirements for sterilisation in slaughterhouses**

4.803 Subject to the exceptions in the next paragraph, carcass meat at a slaughterhouse found to be unfit for human consumption and specified offal at a slaughterhouse\textsuperscript{1871} was required either:

i. to be sterilised immediately;\textsuperscript{1872} or

ii. to be placed immediately in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the slaughterhouse.\textsuperscript{1873}

4.804 There were two exemptions from this requirement in the case of carcass meat or specified offal which:

i. was stained by the occupier of the slaughterhouse immediately after it was brought into separate accommodation dedicated to the retention of unfit meat;\textsuperscript{1874} or

ii. was intended to be removed from the slaughterhouse under the authority of a movement permit issued pursuant to the Regulations to a destination referred to in 17(1)(a).\textsuperscript{1875}

The requirements governing movement permits are discussed at paragraphs 4.830–4.844 below. Reference should also be made to the discussion of the defence available to one charged with contravention of this provision (paragraph 4.809 below) and the further exemption discussed at paragraph 4.808 below.

4.805 Subject to the exceptions in the next paragraph, any offal other than specified offal at a slaughterhouse found to be unfit for human consumption was required either:

i. to be sterilised immediately;\textsuperscript{1876} or

ii. to be placed immediately in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the slaughterhouse.\textsuperscript{1877}

\textsuperscript{1869} For these purposes ‘issuing authority’ was given the meaning assigned to it by article 2(1) of the Diseases of Animals (Waste Food) Order 1973

\textsuperscript{1870} L17 tab 15 Regulation 17(1)

\textsuperscript{1871} By definition, in the case of an animal in a slaughterhouse, specified offal had been rejected as unfit for human consumption: see para. 4.798

\textsuperscript{1872} L17 tab 15 Regulation 6(1)

\textsuperscript{1873} L17 tab 15 Regulation 6(1)

\textsuperscript{1874} L17 tab 15 Regulation 6(2)(a): cf. Chapter 10 of this volume

\textsuperscript{1875} L17 tab 15 Regulation 6(2)(b): for Regulation 17(1)(a) see para. 4.802

\textsuperscript{1876} L17 tab 15 Regulation 7(1)

\textsuperscript{1877} L17 tab 15 Regulation 7(1)
4.806 For present purposes, there were two exemptions from this requirement:

i. in the case of offal other than specified offal found to be unfit (including any green offal not intended to be removed in accordance with the exception at (ii) below) which was intended to be removed from the slaughterhouse under the authority of a movement permit issued pursuant to the Regulations to a destination referred to in Regulation 17(1);\(^\text{1878}\) and

ii. any green offal unfit for human consumption, and any other offal not being specified offal which was in a container the contents of which consist mainly of green offal, which in either case was intended to be removed from the slaughterhouse to the premises of a processor for sterilisation.\(^\text{1879}\)

The requirements governing movement permits are discussed at paragraphs 4.830 –4.844 below. Reference should also be made to the discussion of the defence available to one charged with contravention of this provision (paragraph 4.809 below) and the further exemption discussed at paragraph 4.808 below.

**Restrictions on removal from slaughterhouses**

4.807 Subject to the exceptions in the next paragraph, the Regulations imposed a prohibition upon any person removing or causing or permitting to be removed from any slaughterhouse of which he was the occupier any meat unfit for human consumption\(^\text{1880}\) unless that meat either:

i. had been sterilised;\(^\text{1881}\)

ii. being carcass meat or specified offal, had been stained, and was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(b) to (e);\(^\text{1882}\)

iii. being carcass meat or specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(a);\(^\text{1883}\) or

iv. being offal other than specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1).\(^\text{1884}\)

4.808 A person was exempted from the requirement to obtain a movement permit in respect of the removal from a slaughterhouse occupied by him of either:

i. of any green offal intended to be delivered to the premises of a processor for sterilisation;\(^\text{1885}\) or

ii. of any carcass meat or offal other than green offal if such meat was removed in a container the contents of which consisted mainly of green offal and which was intended to be delivered to the premises of a processor for sterilisation.\(^\text{1886}\)
4.809 It was a defence for any person charged with a contravention of, or a failure to comply with, the Regulations set out at paragraphs 4.803–4.808 above, to prove that he did not know, and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption.1887

Requirements for sterilisation in knacker’s yards

4.810 Subject to the exceptions in the next paragraph, carcass meat and specified offal derived from an animal slaughtered in, or brought into, a knacker’s yard was required to be sterilised immediately after skinning, evisceration, or cutting up (whichever operation was the last carried out at the yard).1888

4.811 There were three exemptions from this requirement in the case of carcass meat or specified offal which was either:

i. placed immediately after skinning, evisceration, or cutting up (whichever operation was the last carried out at the yard), in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the yard;1889

ii. stained at the knacker’s yard immediately after skinning, evisceration, or cutting up, (whichever operation was the last carried out at the yard);1890 or

iii. intended to be removed from the knacker’s yard under the authority of a movement permit to a destination referred to in Regulation 17(1)(a).1891

4.812 The requirements governing movement permits are discussed at paragraphs 4.830–4.844 below. Reference should also be made to the further exemption discussed at paragraph 4.816 below.

4.813 Subject to the exceptions in the next paragraph, any offal other than specified offal derived from an animal slaughtered in, or brought into, a knacker’s yard was required immediately after evisceration either:

i. to be sterilised; or

ii. to be placed immediately in a room or receptacle designed for the purpose of holding meat awaiting sterilisation and bearing a notice stating that its contents were to be sterilised on the premises, and then to be sterilised at the yard.1892

4.814 For present purposes, there were two exemptions from this requirement:

i. in the case of offal other than specified offal (including any green offal not intended to be removed in accordance with the exception at (ii) below) which was intended to be removed from the knacker’s yard under the authority of a movement permit issued pursuant to the Regulations to a destination referred to in Regulation 17(1);1893 and

1887 L17 tab 15 Regulation 9
1888 L17 tab 15 Regulation 10(1)
1889 L17 tab 15 Regulation 10(2)
1890 L17 tab 15 Regulation 10(3)(a)
1891 L17 tab 15 Regulation 10(3)(b); for Regulation 17(1)(a) see para. 4.802
1892 L17 tab 15 Regulation 11(1)
1893 L17 tab 15 Regulation 11(5)(a); for Regulation 17(1) see para. 4.802
ii. any green offal, and any other offal not being specified offal which was in a container the contents of which consisted mainly of green offal, which in either case was intended to be removed from the knacker’s yard to the premises of a processor for sterilisation. 1894

The requirements governing movement permits are discussed at paragraphs 4.830–4.844 below. Reference should also be made to the further exemption discussed at paragraph 4.816 below.

Restrictions on removal from knacker’s yards

4.815 Subject to the exceptions in the next paragraph, the regulations imposed a prohibition upon any person removing or causing or permitting to be removed from any knacker’s yard of which he was the occupier any meat 1895 unless that meat either:

i. had been sterilised; 1896

ii. being carcass meat or specified offal, had been stained, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(b) to (e); 1897

iii. being carcass meat or specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(a); 1898

iv. being offal other than specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1). 1899

4.816 A person was exempted from the requirement to obtain a movement permit in respect of the removal from a knacker’s yard occupied by him either:

i. of any green offal intended to be delivered to the premises of a processor for sterilisation; or

ii. of any carcass meat or offal other than green offal if such meat was removed in a container the contents of which consisted mainly of green offal and which was intended to be delivered to the premises of a processor for sterilisation. 1900

Requirements affecting removal of unfit meat from a place other than a slaughterhouse or knacker’s yard

4.817 The Regulations imposed a prohibition upon any person removing or causing or permitting to be removed from any place of which he was the occupier, not being a slaughterhouse or knacker’s yard, any meat unfit for human consumption cut from any variety of cattle, sheep, pig, equine animal or goat which had died or been

1894 L17 tab 15 Regulation 11(2)(b)
1895 L17 tab 15 Regulation 8(1)
1896 L17 tab 15 Regulation 12(1)(a)
1897 L17 tab 15 Regulation 12(1)(b); for Regulations 17(1)(b) to (e) see para. 4.802
1898 L17 tab 15 Regulation 12(1)(c); for Regulation 17(1)(a) see para. 4.802
1899 L17 tab 15 Regulation 12(1)(d); for Regulation 17(1) see para. 4.802
1900 L17 tab 15 Regulation 12(2)
slaughtered at that place or had been brought there having died or been slaughtered,\textsuperscript{1901} unless that meat either:

i. had been sterilised,\textsuperscript{1902}

ii. being carcass meat or specified offal, had been stained, and was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(b) to (e),\textsuperscript{1903}

iii. being carcass meat or specified offal, was intended and authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1)(a);\textsuperscript{1904}

iv. being offal other than specified offal, was intended and was authorised by a movement permit to be delivered to a destination referred to in Regulation 17(1);\textsuperscript{1905} or

v. was intended to be delivered to a knacker’s yard.\textsuperscript{1906}

Requirements as to freezing of meat

4.818 Subject to the exceptions in the paragraph below, the Regulations imposed a prohibition against any person freezing any carcass meat which was unfit for human consumption or specified offal in a slaughterhouse\textsuperscript{1907} or any carcass meat or specified offal in a knacker’s yard unless that meat had been sterilised or stained.\textsuperscript{1908}

4.819 There were two exemptions from this prohibition:

i. in the case of any meat which was intended to be removed under the authority of a movement permit from the slaughterhouse or knacker’s yard to a destination referred to in Regulation 17(1)(a);\textsuperscript{1909} and

ii. in the case of any meat from a carcass infested with cysticercus bovis which was frozen in accordance with relevant meat inspection provisions.\textsuperscript{1910}

Requirements as to possession for sale, and sale, of meat

4.820 Subject to the exceptions in the paragraph below, the Regulations prohibited any person from possessing for the purpose of sale or preparation for sale either:

i. any meat removed from a slaughterhouse which was unfit for human consumption;

ii. any meat removed from a knacker’s yard; or
iii. any meat unfit for human consumption from an animal which had died or had been slaughtered at a place other than a slaughterhouse or knacker’s yard, or had been brought to such a place after having died or been slaughtered; unless that meat had been sterilised. 1911

4.821 There were exemptions from this prohibition in the case of any meat which was in the possession of a person either:

i. while in transit under the authority of a movement permit to a destination referred to in Regulation 17(1)(a); 1912

ii. referred to in Regulation 17(1)(e) at his premises; and, where required by the Regulations, had been stained; 1913

iii. while in transit under the authority of a movement permit to a destination referred to in Regulation 17(1)(b) to (e); and, where required by the Regulations, had been stained; 1914 or

iv. at premises listed in Regulation 17(1)(a) to (d) for any purpose contemplated in the provisions or with a view to its removal from those premises in accordance with the provisions relating to closure, breakdown or trade dispute (see paragraph 4.827 below) or while in transit from such premises in accordance with those provisions. 1915

4.822 It was a defence for any person charged with a contravention of this provision to prove either:

i. that he did not know, and could not with reasonable diligence have ascertained, that the meat was unfit for human consumption or removed from a knacker’s yard; or

ii. that any meat removed from a slaughterhouse became unfit only after its removal. 1916

4.823 The Regulations imposed a prohibition against any person selling or offering or exposing for sale, by retail, any meat which was unfit for human consumption or any knacker meat unless that meat had been sterilised. 1917 For the purposes of this prohibition, a sale by retail did not include a sale of meat direct from a slaughterhouse or knacker’s yard to a destination referred to in Regulation 17(1). 1918

4.824 It was a defence for any person charged with a contravention of this provision to prove that he did not know, and could not with reasonable diligence have ascertained, that the meat was meat to which this prohibition applied. 1919
Requirements as to storage of meat

4.825 No person was permitted to store any unsterilised meat which was unfit, or not intended, for human consumption:

i. in the same room as any meat which was fit for human consumption, unless that meat was stored according to an arrangement which ensured that it was adequately separated from the meat which was fit for human consumption and that arrangement had been approved by the appropriate local authority; and

ii. unless any container, wrapper, or other packaging used to hold the meat bore a notice of adequate size which was conspicuously visible and contained a distinct, legible and unambiguous statement to the effect that the meat held therein was not for human consumption, together with the name of the packer and the address at which the meat was packed.\textsuperscript{1920}

4.826 It was a defence for any person charged with a contravention of the provisions described at sub-paragraphs (i) to (ii) above to prove that he did not know, and could not with reasonable diligence have ascertained, that the meat was unfit, or not intended for, human consumption.\textsuperscript{1921}

Exemption in cases of lack of equipment or exhaustion of supplies

4.827 Meat unfit for human consumption and knacker meat could be removed unsterilised and unstained from a slaughterhouse or knacker’s yard which was not equipped for the sterilisation of meat provided:

i. all the destinations referred to in Regulation 17(1) and to which it was reasonably practicable to deliver that meat were, by reason of permanent or temporary closure of the premises or breakdown of machinery or a trade dispute, unable to receive the meat;

ii. the meat was transported in a vehicle or impervious container which was locked or sealed at all times and which bore a notice of adequate size which was conspicuously visible and contained a distinct, legible and unambiguous statement that the meat contained therein was not for human consumption; and

iii. the meat was removed in accordance with an arrangement in writing with, and under the supervision of, an authorised officer of the local authority in whose district the slaughterhouse or knacker’s yard was situated, to a place where it was buried or destroyed.\textsuperscript{1922}

\textsuperscript{1920} L17 tab 15 Regulations 22(1) and (2)
\textsuperscript{1921} L17 tab 15 Regulations 21(3) and 22(3)
\textsuperscript{1922} L17 tab 15 Regulation 16(1)
4.828 Further, carcass meat unfit for human consumption or specified offal and knacker meat consisting of carcass meat or specified offal could be removed unsterilised and unstained from a slaughterhouse or knacker’s yard which had exhausted and could not practicably replenish, its supplies of staining fluid, to a destination referred to in Regulation 17(1)(b) to (d). This could be done if that meat was delivered in accordance with an arrangement in writing with, and supervised by, an authorised officer of the local authority.  

4.829 The removal of any meat in accordance with these provisions exempted the occupier of the slaughterhouse or knacker’s yard from any requirement imposed by the Regulations to sterilise or stain the meat.

Requirements on movement

4.830 The 1982 MSSR imposed requirements on destinations and mode of transport, limiting what could be done at such destinations, and imposing, (with exceptions) a scheme of movement permits. These are described below.

4.831 Meat unfit, or not intended, for human consumption or knacker meat could be removed, in accordance with any movement permit required by the Regulations to be issued in respect of that movement, to one of the destinations identified in Regulation 17(1). These are listed in paragraph 4.802 above.

4.832 Meat removed to a destination referred to in Regulation 17(1)(b) to (e) was required to be removed in a vehicle or impervious container which:

i. was kept closed and locked or sealed at all times except when necessary for the loading or unloading of the contents or their examination by an authorised officer; and

ii. bore a notice of adequate size which was conspicuously visible and contained a distinct legible and unambiguous statement to the effect that the meat carried therein was not for human consumption.

4.833 Once meat unfit, or not intended, for human consumption, or knacker meat had reached any of the premises referred to in Regulation 17(1)(a) to (e) it could not be further removed from those premises unless that meat either:

i. had been sterilised;

ii. was removed from the premises referred to in Regulation 17(1)(e), and was intended to be delivered to another destination listed in Regulation 17(1)(a) to (e) and its removal to that destination was authorised by a movement permit issued pursuant to the Regulations; or

iii. could not be disposed of at those premises by reason of permanent or temporary closure of the premises or breakdown of machinery or a trade dispute, and it was removed in accordance with an arrangement in writing with, and under the supervision of, an authorised officer of the local authority in whose district those premises were located.

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1923 L17 tab 15 Regulation 16(2)
1924 L17 tab 15 Regulation 16(3)
1925 L17 tab 15 Regulation 17(1)
1926 L17 tab 15 Regulation 17(2); in the case of meat removed from a slaughterhouse or knacker's yard, the notice was to be affixed by the occupier of the slaughterhouse or knacker's yard
1927 L17 tab 15 Regulation 17(3)
premises were situated, to another destination referred to in Regulation 17(1)(a) to (d) or a place where it was buried or destroyed.

4.834 Regulation 19 set out the procedure to be followed in those cases where the Regulations required that removal of meat from certain premises take place under the authority of a movement permit. At least two working days before it was intended to remove the unsterilised meat from such premises, the occupier of the premises or owner of the meat had to apply to the local authority giving the following information:

i. the intended removal date;

ii. the description of the meat;

iii. the address and description of the premises to which the meat was to be delivered; and

iv. the expected date of arrival of the meat at those premises.

4.835 Upon receipt of an application the local authority was required, without undue delay, to satisfy itself that the premises to which it was intended to deliver the unsterilised meat were premises of a kind referred to in Regulation 17(1) and were capable of processing or otherwise disposing of the meat. If the premises were situated in the district of another local authority, the authority to whom the application was made was required to notify that other authority that the application had been made, and was required to take into account any information obtained from that authority in reaching its decision as to the nature of the premises.

4.836 When the occupier of any premises, or the owner of any meat, to which the Regulation applied, regularly delivered unsterilised meat of a specific description to a particular destination, the authority in whose district the premises or meat were situated was required, on application being made to it stating the description of that meat and the address and description of that destination, to authorise in advance each such movement by issuing such quantity of movement permits as it considered appropriate.

4.837 Movement permits were to be in the form specified in the schedule to the Regulations. The permit was divided into Parts I to V. When satisfied of the matters referred to in Regulation 19(2) a local authority was to complete Part I of the permit and issue to the applicant an original and three copies of the permit. Part I was as follows:

1928 L17 tab 15 Regulations 8, 12, and 13, described at paras 4.816–4.818 above
1929 L17 tab 15 Regulation 19(1)
1930 L17 tab 15 For Regulation 17(1) see para. 4.802 above
1931 L17 tab 15 Regulation 19(2)
1932 L17 tab 15 Regulation 19(4)
1933 See para. 4.835 above
1934 L17 tab 15 Regulation 19(3)
The occupier of the premises from which the unsterilised meat was removed under the authority of a movement permit was required to complete Part II of the document delivered to him and was required to give the original together with two copies to the driver of the vehicle in which the meat was removed and to keep the other copy for a period of two years.  

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**FOOD**

**SCHEDULE**

**(Regulation 19)**

**UNFIT OR KNACKER MEAT : MOVEMENT PERMIT**

**PART I** (To be completed by the local authority or port health authority which authorises the movement)

1. Name and address of consignor: ........................................

2. Name of consignee and address of the premises to which meat is to be delivered: ........................................

3. Name and address of local authority in whose area the address shown at (2) above is situated: ........................................

4. *(Completion optional)*
   
   a. Maximum quantity of meat which may be moved: ......................
   
   b. Period within which the meat may be moved: ......................

5. **Authorisation**
   
   The consignor named at (1) above is hereby authorised to despatch unfit meat or knacker meat to the consignee at the address shown at (2) above subject to any limitations set out at (4) above.

   (Signature of authorising officer)

   (Name and address of authority)

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**4.838** The occupier of the premises from which the unsterilised meat was removed under the authority of a movement permit was required to complete Part II of the document delivered to him and was required to give the original together with two copies to the driver of the vehicle in which the meat was removed and to keep the other copy for a period of two years.  

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**1935** L17 tab 15 Regulation 19(5)
Part II was as follows:

PART II (To be completed by the consignor)

(6) **Details of consignment**

(i) Description of material (species of animal, type of meat/offal, etc):

(ii) Quantity of material:

(iii) Number of containers:

(iv) Size and type of containers:

(v) Expected date of arrival:

S.I. 1982/1018 3037

(7) **Means of Transport**

(i) Type of vehicle:

(ii) Registration number:

(iii) Name and address of owner:

(8) **Declaration**

I certify that the material described in (6) above was despatched today to the consignee at the address shown in (2) above, using the means of transport described in (7) above.

<table>
<thead>
<tr>
<th>WARNING:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Any person who knowingly or recklessly makes a false statement or declaration in this document renders himself liable to prosecution.</td>
<td></td>
</tr>
</tbody>
</table>

. (Signature of consignor)  
(Date)

THIS FORM SHOULD NOW BE HANDED TO THE DRIVER OF THE VEHICLE, WHO SHOULD HAND IT TO THE CONSIGNEE ON ARRIVAL: KEEP ONE COPY FOR YOUR OWN RECORDS.

4.839 Having completed Part II, the occupier handed the original and two of the copies to the driver of the vehicle in which the meat was removed and retained the third copy for at least two years.\(^{1936}\)

4.840 When the driver delivered the meat to the premises named in the movement permit he was required to give that permit to the occupier of those premises.\(^{1937}\) The occupier was then required to complete Part III of the permit and to acknowledge receipt of the meat thus delivered to him by signing the original and two copies and was required, within seven days from the date of receipt of the meat, to send the original and one copy to the local authority in whose district his premises were

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\(^{1936}\) L17 tab 15 Regulation 19(5)  
\(^{1937}\) L17 tab 15 Regulation 19(6)
The occupier was required to retain the other copy for a period of two from the date on which he received that meat. Part III was as follows:

**PART III (To be completed by the consignee)**

(9) *Declaration*
I certify that the material described in (6) above was received at the address shown in (2) above on ........................................... (date).

**WARNING:**

Any person who knowingly or recklessly makes a false statement or declaration in this document renders himself liable to prosecution.

(Signature of consignee) ........................................... (Date)

THIS FORM SHOULD NOW BE SENT TO THE LOCAL AUTHORITY AT THE ADDRESS SHOWN IN (3) ABOVE: KEEP ONE COPY FOR YOUR OWN RECORDS.

**4.841** If the driver was unable to deliver the meat to the premises named in the movement permit, he was required without delay to inform or cause to be informed either the local authority which issued the permit, or the local authority in whose area the delivery premises were situated. That authority was required without delay to authorise the delivery of the meat to another destination referred to in Regulation 17(1), or, if no such alternative destination was available, require the meat to be returned to the premises from which it was removed, or to be buried or destroyed under its supervision. The driver was required to hand the movement permit to the occupier of the premises to which the meat was delivered, or, in the case of its burial or destruction, to the supervising authority.

**4.842** The occupier of the premises to which the meat was delivered was required to complete Part IV of the movement permit and acknowledge receipt of the meat to which the permit related by signing the original and its two copies and was required, within seven days of the receipt of the meat, to send the original and one copy to the local authority in whose district his premises were situated. The occupier was required to retain the other copy for a period of two years from the date on which he received the meat to which it related. Part IV was as follows:

**PART IV (To be completed by the person taking delivery of the material if it was not delivered to the consignee at the address shown in (2) above)**

(10) Reason why material was not delivered to the address shown in (2) above:

**4.843** Any local authority which was sent a movement permit was required to complete Part V of that permit and to send the original to the authority which issued it and retain the copy for a period of two years. Part V was as follows:
4.844 Any person required to retain a document under Regulation 19 was required to make that document available for inspection by an authorised officer at any reasonable time. 1944

**Enforcement**

4.845 The local authority was to enforce and execute the provisions of the Regulations in its district. 1945 The primary means of enforcing the Regulations was provided by powers conferred upon authorised officers under the Food and Drugs Act 1955. An authorised officer (see paragraph 4.764 above) of a council, on producing, if required, authenticated documents showing his authority had a right to enter any premises at all reasonable hours for the purposes of:

i. ascertaining whether there was or had been on, or in connection with, the premises any contravention of the Regulations; and

ii. performing the functions of the council under the Regulations. 1946

Admission to a private dwelling house was not to be demanded as of right unless 24 hours’ notice of the intended entry had been given to the occupier.

4.846 If a JP, on sworn information in writing:

i. was satisfied that there was reasonable ground for entry into any premises for any such purpose set out above; and

ii. was also satisfied either:

   a. that admission to the premises had been refused, or a refusal was apprehended and that notice of the intention to apply for a warrant had been given to the occupier; or

   b. that an application for admission, or the giving of such a notice would defeat the object of the entry, or that the case was one of urgency, or that the premises were unoccupied or the occupier was temporarily absent;

he had a power by warrant under his hand to authorise the council by any authorised officer to enter the premises, if need be by force. 1947 An authorised officer entering

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1944 L17 tab 15 Regulation 19(13)
1945 L17 tab 15 Regulation 26(2)
1946 L11 tab 20 section 100(1)
1947 L11 tab 20 section 100(2)
any premises pursuant to either of these provisions had a power to take with him such other persons as may have been necessary, and on leaving unoccupied premises which he had entered by virtue of a warrant, was required to leave those premises as effectively secured against trespassers as he found them.1948

4.847 In addition, an authorised officer (see paragraph 4.764 above) of a council, on producing, if required, authenticated documents showing his authority had a right at all reasonable hours to enter any vehicle, stall or place other than premises for any purpose for which he was empowered under section 100.1949 In such circumstances the provisions outlined above in relation to entry to premises applied to any vehicle, stall or place other than premises as if a reference to the occupier referred to the person in charge of the vehicle, stall or place other than premises.1950

4.848 Under the 1982 MSSR, an authorised officer had, at all reasonable times a power to examine any meat not fit or not intended for human consumption which had been sold, was offered or exposed for sale or was in the possession of, or had been deposited with or consigned to any person for the purpose of sale or preparation for sale.1951 The authorised officer had a further power to seize the meat and remove it in order for it to be dealt with by a JP, if it appeared to the authorised officer that the meat was required by the Regulations either:

i. to be sterilised, but it had not been sterilised;

ii. to be stained, but it had not been stained;

iii. to bear a notice, but it did not bear a notice; or

iv. to be accompanied by a movement permit, but it was not.

4.849 Having seized any meat under this power, the officer was required to inform the person in whose possession the meat was found of his intention to have it dealt with by a JP.1952 Anyone liable for prosecution under the terms of the Regulations was entitled, if he attended before the JP, to be heard and to call witnesses.1953 If it appeared to the JP that the meat brought before him, whether seized under the provisions of this Regulation of not, was meat to which the Regulations applied and was required to be but had not been dealt with in accordance with those Regulations, he was required to condemn it and order it to be destroyed or to be so dealt with.1954 In the event that a JP refused to condemn any such meat, the council was required to compensate the owner of the meat for any depreciation in its value resulting from its seizure and removal.1955

4.850 The Regulations also provided that if an authorised officer had reason to suspect that any vehicle or container contained any meat to which the Regulations applied and which was intended for sale or was in the course of delivery after sale, then he had a power to examine the contents, and, if necessary, detain the vehicle or container.1956 In the event that he found any meat which was required to be but was not dealt with in accordance with the Regulations, the authorised officer was able to seize the meat and remove it as set out at paragraph 4.848 above.

1948 L11 tab 20 section 100(3)
1949 L11 tab 20 section 101(1); for section 100 see paras 4.845–4.846 above
1950 L11 tab 20 section 101(2)
1951 L17 tab 15 Regulation 23(1)
1952 L17 tab 15 Regulation 23(2)
1953 L17 tab 15 Regulation 23(3)
1954 L17 tab 15 Regulation 23(4)
1955 L17 tab 15 Regulation 24(1)
4.851 Any person contravening or failing to comply with any provision of the Regulations, or knowingly or recklessly making a false statement or declaration in the Regulations for the movement of meat, was guilty of an offence. This rendered him liable on summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding three months, or to both, and, in the case of continuing offence, to a further fine not exceeding £5 for each day during which the offence continued after conviction.\textsuperscript{1957}

4.852 All of the above restrictions in the 1982 MSSR were subject to the application of provisions of the Food and Drugs Act 1955 as follows:\textsuperscript{1958}

i. section 113 provided that a person against whom proceedings were brought was entitled to bring before the Court in proceedings any person to whose act or default he alleged that the contravention of the provisions in question was due and prove that the contravention was due to the act or default of that person;

ii. section 115(2) imposed restrictions upon the circumstances in which it was possible for it to be a defence in a set of proceedings under the Act that a warranty had been given that any article or substance could be lawfully sold or dealt with under the name or description or for the purpose under or for which it was sold or dealt with;

iii. section 116 set out offences of applying to an article or substance a warranty or certificate of analysis given in relation to another article or substance and of giving of a false warranty in writing, and provisions relating to those offences;

iv. section 128 provided that an officer of the council acting in good faith in the execution or purported execution of the Act and within the scope of his employment was not to be held personally liable and that the council had a power to indemnify such an officer against any damages and costs in circumstances where he was not legally entitled to require such an indemnity.

4.853 Table 1 below summarises the principal requirements as to sterilisation and removal of unfit meat under the 1982 MSSR.
Table 1: Meat (Sterilisation & Staining) Regulations 1982: Principal requirements as to sterilisation & removal (excluding poultry and imported meat)

<table>
<thead>
<tr>
<th>Category of meat</th>
<th>Required to sterilise on premises unless excepted</th>
<th>Exception if stained</th>
<th>Exception if [unstained] to be removed under MP to Reg.17(1)(a) destination</th>
<th>Exception if [unstained] to be removed under MP to any Reg.17(1) destination</th>
<th>Exception if [unstained] to be removed [without MP] to Reg.17(1)(b) destination</th>
<th>Prohibition on removal unless sterilised or excepted</th>
<th>Exception if stained and to be delivered under MP to Reg.17(1)(b) to (e) destination</th>
<th>Exception if to be delivered [unstained] under MP to Reg.17(1)(a) destination</th>
<th>Exception if to be delivered under MP to any Reg.17(1) destination</th>
<th>Exception: if to be delivered [without MP] to Reg.17(1)(b) destination</th>
</tr>
</thead>
<tbody>
<tr>
<td>Slaughter house</td>
<td>Yes, Reg.6(1)</td>
<td>Yes, Reg.6(2)(a)</td>
<td>Yes, Reg.6(2)(b)</td>
<td></td>
<td>Yes, Reg.8(1)(a)</td>
<td>Yes, Reg.8(1)(b)</td>
<td>Yes, Reg.8(1)(c)</td>
<td></td>
<td></td>
<td>Yes, if stained and in container mainly of green offal, Reg.8(1)(b) &amp; (2)(b)</td>
</tr>
<tr>
<td>CM or SO *</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ditto other offal**</td>
<td>Yes, Reg.7(1)</td>
<td></td>
<td>Yes, Reg.7(2)(a)</td>
<td>Yes, if GO/mainly GO *** Reg.7(2)(c)</td>
<td>Yes, Reg.8(1)(a)</td>
<td></td>
<td></td>
<td>Yes, Reg.8(1)(d)</td>
<td>Yes, [unstained] if GO/mainly GO *** Reg.8(2)</td>
<td></td>
</tr>
<tr>
<td>Knacker's yard</td>
<td>Yes, Reg.10(1)</td>
<td>Yes, Reg.10(3)(a)</td>
<td>Yes, Reg.10(3)(b)</td>
<td></td>
<td>Yes, Reg.12(1)(a)</td>
<td>Yes, Reg.12(1)(b)</td>
<td>Yes, Reg.12(1)(c)</td>
<td></td>
<td></td>
<td>Yes, if stained and in container mainly of green offal, Reg.12(1)(b) &amp; (2)(b)</td>
</tr>
<tr>
<td>CM or SO #</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Ditto other offal ##</td>
<td>Yes, Reg.11(1)</td>
<td></td>
<td>Yes, Reg.11(2)(a)</td>
<td>Yes, if GO/mainly GO *** Reg.11(2)(b)</td>
<td>Yes, Reg.12(1)(a)</td>
<td></td>
<td></td>
<td>Yes, Reg.12(1)(d)</td>
<td>Yes, [unstained] if GO/mainly GO *** Reg.12(2)</td>
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<td>Ditto other offal ++</td>
<td>Yes, Reg.13(1)(a)</td>
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<td>Yes, Reg.13(1)(d)</td>
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* carcass meat or specified offal found unfit for human consumption at slaughterhouse
** offal (other than specified offal) found unfit for human consumption at slaughterhouse
*** green offal, and other non-specified offal in container of mainly green offal
# carcass meat or specified offal at knacker’s yard
## offal (other than specified offal) at knacker’s yard
+ carcass meat or specified offal unfit for human consumption cut from animal at place other than slaughterhouse or knacker’s yard and not intended for knacker’s yard
++ offal, other than specified offal, unfit for human consumption cut from animal at place other than slaughterhouse or knacker’s yard and not intended for knacker’s yard
**CIEH criticisms of the system**

4.854 The Chartered Institute of Environmental Health (CIEH) was one of the groups at the forefront of the lobbying for legislative change which took place in the wake of ‘Operation Meathook’. However, whilst the regime set up by the 1982 MSSR built upon suggestions of the CIEH, its suggestions were not adopted in their entirety and the CIEH continued to have serious concerns about the scope and terms of the regime into the 1990s.\(^{1959}\)

4.855 The CIEH submission to the Inquiry attached the transcript of a talk given by Mr K J Tyler, the CIEH Secretary, speaking at the CIEH Congress in 1982. Mr Tyler quoted from a letter sent by the Meat Legislation Review Group of the CIEH to MAFF on 7 June 1982 commenting upon the draft proposals for the 1982 MSSR:

The institution raises as a fundamental objection the proposed exclusion of offal and poultry meat from the full requirements of the Regulations, and in particular to staining and sterilisation. However, following consultations with various sections of the food trade and the Pet Food Manufacturers Association, the Institution may be prepared to make some concessions in respect of offal. The Institution is adamant that all offal emanating from knacker yards and unfit offal from slaughterhouses should be included within the staining and sterilisation requirements. In relation to imported offal for use by the pet food trade the Institution is prepared to consider foregoing the staining and sterilisation requirements but only if the licensing requirements for this importation are tightened up, i.e. that only bonafide petfood processors of this inedible offal are licensed to import. In other words the institution would be opposed to a dealer importing this product and then hawking it around the market in the hope of finding a buyer.\(^{1960}\)

4.856 However, in the event, as has been seen, a decision was taken to exempt ‘non-specified offal’ from the stricter requirements applied to carcass meat and ‘specified offal’.\(^{1961}\) Consequently, a regime came into being, about which Mr Tyler said the following:

We now have three different types of offal:—specified, green, any other. Some is stained, some is not; some is sterilised, some is not; dependant on where it is going. Some whether it is stained, sterilised or not requires a movement permit. I hope that all local authorities understand and interpret the Regulations in the same manner or confusion may well reign. Perhaps I am being rather too pessimistic: yes, the Regulations are complicated and the paperwork which the institution wanted, ‘the ‘paper’ control’, but only when the Ministry did not meet our original demands for all meat and offal to be either stained or sterilised and for there to be no exemptions to that rule. Had that been the case no paperwork would have been required.\(^{1962}\)

4.857 Moreover, even after the 1982 MSSR were introduced, the CIEH continued to harbour concerns about the broader unfit meat regime. In a 1990 paper entitled

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\(^{1959}\) M43 tabs 4 and 8  
\(^{1960}\) M43 tab 4  
\(^{1961}\) See paras 4.796–4.799 above  
\(^{1962}\) K J Tyler, CIEH Secretary, speaking at the CIEH Congress 1982; M43 tab 4 p. 4–5
‘The Illegal Trade in Unfit Meat for Human Consumption’ they drew attention to a number of these:

**LEGISLATIVE FRAMEWORK**

The original report called for changes in legislation available to enforcement authorities. Yet subsequent changes in the Meat (Staining and Sterilisation) Regulations and the Food Act 1984 failed to effectively control unfit meat.

– There were no changes in the existing unsatisfactory system of meat marking. The IEHO recommended a system of roller marking.

– It is still not an offence to possess an unauthorised meat inspection stamp.

– There has been no change in the reference to ‘for sale’ in the Meat Inspection Regulations. Constant enforcement problems are experienced when the ‘owner’ insists that a carcass is not intended for sale for human consumption. (This will change with the inception of the Food Safety Act).

– The BVA has introduced a new form for the Veterinary Certificate for Slaughterhouse Admission for Sick and Injured Animals, yet there is no legal requirement for proper documentation, and vets may continue to submit ‘back of cigarette packet’ certificates. There are still instances where vets certify dead animals for admission to a slaughterhouse, although this is illegal.

– There are no inspection requirements for knacker’s yards, which may be adjacent to slaughterhouses and which should be under similar control.

– Knacker activities at unfit meat places such as zoos and hunt kennels are still outside the scope of licensing requirements.

– There are no requirements for the labelling of boxed meat at the wholesale stage despite stringent controls at the later, retail stage.

**RECOMMENDATIONS**

A. All local authorities should urgently seek to identify areas of potential risk. In particular, EHOs should step up their checks of meat arriving at school and hospital kitchens and other institutions. Core samples should be taken for bacteriological examination and checks made back through the meat supply chain.

B. The Institution should set up a liaison network with other involved professions to establish closer working relationships.

C. Legislative controls must be introduced to cover knacker’s yards and other associated activities, including hunt kennels. Legislation must be quickly introduced to alter the meat stamping system.
D. Casualty slaughter must carefully controlled, while preserving the prime motive of preventing suffering to the animal.

E. Collection areas of knacker men/fallen stock collectors must be defined, with fixed unfit meat labelling to vehicles and it made an offence to sell dead animals to anyone other than a licensed operator.

F. Careful consideration should be given to the effectiveness of the Meat (Staining and Sterilisation) Regulations and to seek changes where necessary.\textsuperscript{1963}

### Meat (Sterilisation and Staining) (Amendment) Regulations 1984

4.858 A number of amendments to the 1982 MSSR were introduced by means of the Meat (Sterilisation and Staining)(Amendment) Regulations 1984.\textsuperscript{1964} What follows is a brief description of those amendments insofar as they are relevant to the discussion of the 1982 MSSR above.

4.859 The definition of ‘specified offal’ was amended to mean the hearts, kidneys, livers and lungs derived from an animal which, in the case of a carcass in a slaughterhouse, had been rejected by an authorised person as unfit for human consumption by reason of any disease or pathological condition other than either:

i. ascariasis, fascioliasis, telangiectasis; or

ii. changes caused by the operations of stunning, slaughter or dressing of the animal.\textsuperscript{1965}

4.860 A Regulation was introduced disapplying the 1982 MSSR in respect of meat removed or intended to be removed from any place or premises by, or under the authority of, a veterinary surgeon for examination by him or on his behalf.\textsuperscript{1966}

4.861 A further prohibition was introduced against any person bringing, or causing or permitting to be brought, into England and Wales from Scotland or Northern Ireland any meat unfit for human consumption.\textsuperscript{1967} The exemptions from this prohibition were identical to those which existed in relation to the removal of unfit meat from a slaughterhouse (as outlined at paragraph 4.807 above), save for the fact that importation of meat from Scotland and Northern Ireland required the meat to be accompanied to the destination by a consignment note or permit\textsuperscript{1968} rather than a movement permit.

4.862 The driver of the vehicle in which the meat was delivered to any premises accompanied by a consignment note or a permit was required to give that note or copy of that permit to the occupier of those premises. The occupier was required to
retain that document for two years and within seven days to send a copy to the local authority in whose area his premises were located. The document was required to be available for inspection by an authorised officer at any reasonable time. Upon receipt of the copy, the local authority was required forthwith to notify in writing of the arrival of the consignment either:

i. in the case of an importation from Scotland, the local authority from whose district the meat was imported; or

ii. in the case of an importation from Northern Ireland, the Department of Agriculture Northern Ireland.

This prohibition resulted in certain amendments elsewhere, namely:

i. the range of persons authorised to declare ‘specified offal’ as unfit,1969 and

ii. amendments to the prohibition on possession for sale, the exemptions from that prohibition and the defences to it (Regulation 20 of the 1982 MSSR).

4.863 Amendments were made to the list of five destinations in Regulation 17 of the 1982 MSSR to which unfit meat could be delivered under the authority of a movement permit (see paragraph 4.802 above).1970 The first destination was amended to include a ‘pharmaceutical extract supplier’ which was defined as a person whose business consisted, wholly or mainly, of the collection, storage, and preparation of glands, liquid extracts and other materials derived from the carcasses of animals, prior to their removal to a manufacturing chemist for the manufacture of pharmaceutical products.

4.864 The third destination was amended to prohibit the removal to a zoo, menagerie, fur farm, maggot farm, or greyhound kennels of carcass meat or offal rejected by an authorised person as unfit for human consumption by reason of tuberculosis. The fifth destination was amended so as to make removal or storage prior to further removal permissible only where the subsequent removal was to a processor; further removal to a ‘manufacturing chemist’ was to be no longer permitted.

4.865 Finally, subsequent removal under Regulation 17(3) of the 1982 MSSR from any of the listed destinations was now to be permitted in circumstances where the meat was removed from a hospital, medical or veterinary school, laboratory or similar institution in accordance with an arrangement in writing with, and under the supervision of, an authorised officer of the local authority in whose district the premises were situated to another destination listed in Regulation 17(1)(a) to (d) or to a place where it was buried or destroyed.

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1969 That is, introducing those authorised under the Food and Drugs (Scotland) Act 1956 and the Agricultural Produce (Meat Regulation and Pig Industry) Act (Northern Ireland) 1962
1970 L17 tab 18 Regulation 7
The Bovine Offal (Prohibition) Regulations 1989

4.866 The Bovine Offal (Prohibition) Regulations 1989 prohibited the sale or use in the preparation of food for sale for human consumption of ‘specified bovine offal’ (SBO). Specified bovine offal was defined in the Regulations as being the brain, spinal cord, spleen, thymus, tonsils and intestines of a bovine animal slaughtered in the UK. Thus, whilst SBO was not brought directly within the scope of ‘unfit’ meat as defined in the Meat Inspection Regulations 1963, it was effectively rendered unfit for human consumption.

4.867 In order to effect the separation of SBO from non-SBO material at the slaughterhouse, the Regulations utilised the regime established under the 1982 MSSR for the separation of unfit meat from fit meat.

4.868 Thus, a parallel regime was introduced under the 1989 Regulations whereby SBO at a slaughterhouse was required to be immediately sterilised (or placed in a designated place for meat awaiting sterilisation and with a notice attached that the contents are for later sterilisation at the slaughterhouse). Alternatively, the requirement to sterilise SBO was obviated by the SBO being stained immediately after slaughter. ‘Sterilisation’ and ‘staining’ were defined by reference to the definitions in the 1982 MSSR. This meant that SBO would be stained with the same stains as unfit meat.

4.869 An express provision was contained in the Regulations whereby it was made clear that the severance of SBO from non-SBO material which was not to be sterilised or stained was permissible under the Regulations. Once severance of the SBO had been effected, the SBO had to be kept in a separate room from meat fit for human consumption unless or until it had been either sterilised or stained and was stored under an arrangement that ensured it was at all times kept separate from fit meat. In addition, the container or packing in which any SBO was stored was required to bear a clear notice stating that the SBO held in that container was not for human consumption.

4.870 Sterilised SBO could be removed from the slaughterhouse without restriction. By contrast, unsterilised SBO could be removed from the slaughterhouse to one of only three specified destinations, and only under the authority of a movement permit. These destinations were as follows:

i. excepted premises;

ii. the premises of a processor for sterilisation; or

iii. the premises of a person for preparation prior to further removal to a processor, or for storage prior to further removal to one of the above two destinations.

4.871 With one important exception, this removal could not be effected unless the SBO was both stained and to be removed in a vehicle or impervious container which was locked or sealed at all times and which bore a notice affixed by the occupier of

1971 L2 tab 3B Regulation 4
1972 L2 tab 3B Regulation 2
1973 L2 tab 3B Regulation 5(1)
1974 L2 tab 3B Regulation 5(2)
1975 L2 tab 3B Regulation 5(4)
1976 L2 tab 3B Regulation 14
1977 L2 tab 3B Regulation 6(a)
the slaughterhouse clearly stating that the SBO therein was not for human consumption.

4.872 The exception was in the case of ‘excepted premises’. These ‘excepted premises’ were defined in the Regulations as either:

- a hospital, medical or veterinary school, laboratory or similar institution for instructional or diagnostic purposes, a rennet manufacturer or a manufacturing chemist (in circumstances where he receives the offal for the manufacture by him of pharmaceutical products); or

- premises used for the manufacture of products other than food and not used for the manufacture of food.1978

4.873 In the case of removal to these excepted premises SBO could be removed neither sterilised nor stained provided the removal was carried out under the authority of a movement permit.1979 This provision mirrors a similar exception in the 1982 MSSR, whereby the removal of unfit meat to laboratories, manufacturing chemists and the like could be carried out without material being sterilised or stained. However, the scope of the exception was wider in the 1989 Regulations, including, as it did, removal of SBO to any manufacturing premises not used for the manufacture of food.

4.874 Notwithstanding the scope of this exception, it did not, in practice, mean that unsterilised SBO was removed to manufacturers of animal feedstuff. Under the Food Act 1984, ‘food’ was to be interpreted as not including animal feedstuff.1980 Consequently, the exemption included within its scope the removal of SBO to a manufacturer of animal feedstuff. However, such manufacturers would ordinarily receive SBO from a renderer after it had been rendered. A renderer was permitted under the Regulations to receive unsterilised SBO by virtue of being a processor to whom it was removed for sterilisation.1981 The process of rendering the SBO would then constitute sterilisation of the SBO within the meaning of the Regulations. Sterilised SBO could then be removed from the rendering plant without restriction (whether to a manufacturer of animal feedstuff or otherwise).1982

4.875 More generally, the removal of unsterilised SBO from a place other than a slaughterhouse or knacker’s yard was prohibited subject to identical exceptions as removal from a slaughterhouse with the addition of two further exceptions. These were delivery to a knacker’s yard and delivery to a slaughterhouse of the offal as an accompaniment to a dressed carcass.1983

4.876 It follows from this that knacker’s yards were not covered in any way by the provisions of the SBO Regulations. SBO, by definition, was derived from slaughtered animals, whereas knacker’s yards dealt largely with fallen stock. The requirements as to sterilisation and staining of SBO applied only to the slaughterhouse. The prohibition on removal of SBO applied only to the

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1978 L2 tab 3B Regulation 2
1979 L2 tab 3B Regulation 6(c)
1980 L1 tab 2B section 131
1981 L2 tab 3B Regulation 11(1)(a)
1982 It is possible that the definition of ‘excepted premises’ enabled SBO to go to manufacturers of pet food. This was remedied by the Bovine Offal (Prohibition) (Amendment) Regulations 1992, which revised the definition of ‘excepted premises’ in a number of respects
1983 L2 tab 3B Regulation 7
slaughterhouse and ‘to a place other than the slaughterhouse or a knacker’s yard’. Thus, by contrast with the 1982 MSSR where knacker meat was presumed to be unfit, the regime introduced by the SBO Regulations left knacker’s yards untouched.

4.877 A further specific exemption from the requirement to sterilise SBO was made in the case of the brain of a bovine contained within its head. Provided the head was intended to be separately removed from the slaughterhouse to a specialist boning plant for the recovery of the head meat (under the authority of a movement permit), the brain was exempted from the sterilisation requirement. However, the occupier of the boning plant was required, after removal of the head meat, either to sterilise or stain the skull with the brain still inside, or to remove the brain and sterilise or stain it separately.

4.878 The removal of unsterilised SBO was controlled by a system of movement permits. This system was identical in every respect to that which applied under the 1982 MSSR for controlling the removal of unfit meat, save that the material covered by the permit was SBO and the form of the permit reflected this.

4.879 The monitoring of this system of movement permits was in the hands of the local authority who controlled their issue. In order to acquire a permit from the local authority the occupier of the slaughterhouse had to lodge an application for a permit to his local authority at least two days before it was intended to remove the unfit meat from the premises. To enter an application the occupier was required to inform the local authority of the intended removal date, give them a description of the SBO, the address and description of the premises to which the SBO was to be delivered and the date on which the consignment would arrive at those premises. The local authority was to issue a permit only upon being satisfied that the premises destined to receive the SBO fell within the scope of the premises to which unsterilised SBO could be removed and that they were capable of processing or otherwise disposing of the SBO.

4.880 As with the 1982 MSSR, the need to apply for a separate permit for each removal was obviated by the fact that an occupier could apply for a block quantity of permits. This was possible where the occupier regularly delivered SBO to a particular destination. The local authority had a discretion, in such a case, to issue whatever quantity of permits it considered appropriate.

4.881 Each movement permit took a specified form and had to be completed in accordance with the Regulations. The permit was divided into Parts I to V. Part I was to be completed by the local authority upon authorising the removal. The local authority issuing officer was required to enter on the permit the name and address of the consignor, the name and address of the consignee and premises to which the SBO was to be delivered, and the name and address of the local authority in whose area those premises were located. The permit gave the local authority the option of specifying a maximum quantity of SBO to be removed and/or a date by which removal had to have taken place. Having completed Part I, the local authority

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1984 L17 tab 15 Regulation 4
1985 L2 tab 3B Regulation 5(3)
1986 L2 tab 3B Regulation 13
1987 L2 tab 3B Regulation 12
1988 L2 tab 3B Regulation 12(1)
1989 L2 tab 3B Regulation 12(2)
1990 L2 tab 3B Regulation 12(4)
1991 L2 tab 3B Regulation 12(3)
was required to make three copies of the movement permit and hand both the original and the copies to the occupier. Completion of Part I thereby authorised the named consignor to despatch SBO to the specified delivery address subject to any limitations imposed by the authority as to quantity and/or time of delivery.

4.882 Part II was for completion by the occupier of the premises from which the meat was to be removed. He was required to fill in details of the consignment, including a description of the SBO, the quantity to be removed, and the containers in which it was to be carried. The occupier was then required to make a declaration that the SBO was despatched on the date shown. Having completed Part II, the occupier handed the original and two of the copies to the driver of the vehicle in which the SBO was removed and retained the third copy for at least two years.\(^{1992}\)

4.883 Upon delivering the consignment, the driver of the delivery vehicle was required to hand the original permit and the two remaining copies to the occupier of the premises named on the permit as the delivery premises.\(^{1993}\) This occupier was then required to fill in Part III. This took the form of a declaration by him that the SBO described by the consignor had been duly delivered to the premises identified in the permit. Having made this declaration, the occupier then sent the original permit and one copy to his local authority, retaining the second copy for himself (again for at least two years).\(^{1994}\)

4.884 In the event that, for whatever reason, the driver was unable to deliver the SBO to the named premises, he was immediately to inform either the local authority which issued the permit, or the local authority in whose area the delivery premises were located. That authority was required to immediately authorise either delivery to an alternative specified destination, return to the consignor, or burial and destruction. Only in these circumstances was Part IV required to be completed, the information and declaration being provided by the occupier of the premises which ultimately took delivery of the SBO.\(^{1995}\)

4.885 The final stage in this process was the receipt of the original permit and one copy by the local authority in whose area the consignee premises were located. That authority was required simply to enter the date upon which it received the permit, and return the original to the issuing authority.\(^{1996}\)

4.886 As Regulations made under the Food Act 1984, the 1989 Regulations were enforceable by means of the blanket power given to authorised officers of the local authority to enter any premises at a reasonable hour for the purpose of ascertaining whether any contravention of the Regulations had taken place.\(^{1997}\) However, in contrast with the 1982 MSSR, the 1989 Regulations conferred upon authorised officers no additional power to examine and seize SBO with a view to securing its condemnation where it had not been dealt with in accordance with the Regulations.\(^{1998}\)

4.887 It should be noted that the Regulations contained certain exemptions. First, the Regulations did not apply at all to SBO from a bovine not more than 6 months

\(^{1992}\) L2 tab 3B Regulation 12(5)  
\(^{1993}\) L2 tab 3B Regulation 12(6)  
\(^{1994}\) L2 tab 3B Regulations 12(7) and (8)  
\(^{1995}\) L2 tab 3B Regulations 12(9) and (10)  
\(^{1996}\) L2 tab 3B Regulation 12(12)  
\(^{1997}\) L1 tab 2B section 87  
\(^{1998}\) See Regulation 23 of the 1982 MSSR
old when slaughtered. Second, the requirements as to sterilisation, staining and removal did not apply to two specified categories of SBO:

i. any SBO which is removed or is intended to be removed from any place by, or under the authority of, a veterinary surgeon for examination by him or on behalf of him; and

ii. any SBO which is neither held for the purposes of a business nor on premises on which the bovine animal whose offal it is has been slaughtered. 1999

The animal SBO ban

4.888 The Bovine Spongiform Encephalopathy (No. 2) Amendment Order 1990 introduced the animal SBO ban. 2000 This Order amended the Bovine Spongiform Encephalopathy (No. 2) Order 1988 2001 which had, among other provisions, introduced the prohibition on the sale or supply for feeding to animals of any feedstuff which incorporated animal protein— the ruminant feed ban. 2002

4.889 The animal SBO ban was introduced by a simple amendment to this provision. By article 2 of the BSE (No. 2) Amendment Order 1990, article 8(3) of the BSE (No. 2) Order was amended to read as follows:

No person shall knowingly sell or supply for feeding to animals or poultry any specified bovine offal or any feedingstuff which he knows or has reason to suspect contains specified bovine offal or animal protein which is derived from specified bovine offal. 2003

4.890 At the same time the definition of ‘animals’ in the ruminant feed ban was extended from meaning only ruminants to including all mammals except man, and any kind of non-mammalian four-footed beast. ‘Specified bovine offal’ was given the same meaning in the animal SBO ban as it was in the human SBO ban. 2004 Consequently, the effect of this provision was to prohibit the sale or supply of feedstuff containing SBO for any mammal or four-footed beast.

4.891 The objective of the animal SBO ban was to keep SBO out of the animal feed chain. In legislative terms an effort was made to achieve this objective purely by means of this simple amendment to the ruminant feed ban. No separate legislation was introduced to regulate activity at any point prior to the point of sale of animal feedstuff by the feed manufacturer.

4.892 This was in contrast to the approach taken to the introduction of the human SBO ban. The Bovine Offal (Prohibition) Regulations 1989, which introduced the human SBO ban, are discussed in vol. 6: Human Health, 1989–96. The approach adopted in those Regulations was to legislate in the slaughterhouse in order to ensure that SBO was taken out of the human food chain at the earliest opportunity (the time of slaughter) and kept separate from material which was otherwise fit for human consumption.

1999 L2 tab 3B Regulation 3 (2)
2000 L2 tab 5
2001 L2 tab 3
2002 L2 tab 3 article 2
2003 L2 tab 5 article 8
2004 L2 tab 5 article 2
4.893 One result of introducing the animal SBO ban by means of an amendment to the ruminant feed ban was that no new measures were introduced in order to augment the existing provisions for the separation of SBO from other material whether at the slaughterhouse or later in the feed production process. Rather, for all intents and purposes, the animal SBO ban relied upon the existing regime for the separation of SBO from non-SBO that was contained in the Bovine Offal (Prohibition) Regulations 1989. This regime was, in turn, based upon that established under the 1982 MSSR for the separation of unfit meat from meat fit for human consumption.

4.894 In comparing the existing regime for SBO separation under the human SBO ban with the requirements of the objective that SBO be kept out of the animal food chain, two central points emerge.

4.895 First, the existing regime for the separation of SBO was of limited scope in its application. That regime focused closely upon the slaughterhouse as the source of meat intended for human consumption. The separation provisions of the SBO Regulations applied neither to knacker’s yards and hunt kennels, nor to renderers and collection centres. These were under an obligation either to sterilise or stain all the material they handled under the 1982 MSSR.2005

4.896 Unsterilised material was subject to the system of movement permits imposed by the 1982 MSSR. Equally, whilst renderers were encompassed within the scope of the movement permit system as premises to which consignments of stained SBO might be delivered, the process of rendering the SBO constituted sterilisation of the SBO within the meaning of the Regulations and so the rendered SBO material could thereafter be moved without the authority of any permit.

4.897 In the context of the human SBO ban and its objectives, this limited scope was sufficient to meet the objective of keeping SBO out of the human food chain. However, all these variously exempted premises were potentially part of the animal feed chain by reason of the fact that they assisted in the production and processing of material for inclusion in animal feed.

4.898 Second, the provisions for separation under the human SBO ban did not provide for the separation of SBO from material which, whilst unfit for human consumption, was still fit for animal consumption.

4.899 ‘Staining’ was defined in the 1989 Regulations by reference to the same definition as in the 1982 MSSR.2006 No separate and distinct stain was to be used in order to identify SBO. Rather, it would be stained using the same two agents as were used to identify other unfit meat, namely Black PN or Brilliant Black BN.

4.900 The provisions governing storage of SBO at the slaughterhouse merely stipulated that SBO should be stored separately from meat which was fit for human consumption.2007 The 1989 Regulations made no provision for the method of storage of SBO vis-à-vis other unfit meat.

4.901 This material was required by the 1989 Regulations to be labelled ‘to the effect that the specified bovine offal held therein is not for human consumption’.2008

2005 L17 tab 15 Regulations 10 and 11
2006 L17 tab 15 Regulation 3
2007 L2 tab 3B Regulation 14(2)
However, the Regulations did not require the material to be identified expressly on the label as ‘SBO’ rather than simply as ‘not for human consumption’. An identical labelling requirement was stipulated in respect of SBO being transported from the slaughterhouse to a processor for sterilisation or to premises for preparation or storage prior to further removal.\textsuperscript{2009}

4.902 In the context of the human SBO ban the distinction between SBO and other meat unfit for human consumption was irrelevant. The objective of that ban was to ensure that SBO was kept out of the human food chain in the same way as other meat which was unfit for human consumption.

The Bovine Spongiform Encephalopathy Order 1991

4.903 The Bovine Spongiform Encephalopathy Order 1991 was made on 1 October 1991 and came into force on 6 November 1991.\textsuperscript{2010} The 1991 Order replaced the BSE (No. 2) Order 1988 and the BSE (No. 2) Order 1990, and, in so doing, consolidated into one order the provisions governing notification, the ruminant feed ban and the animal SBO ban.

4.904 The 1991 Order effected two changes which are of particular note in the present context. First, the definition of SBO was amended to mean the brain, spinal cord, spleen, thymus, tonsils and intestines of a bovine animal over 6 months of age which has died or has been slaughtered in the UK.\textsuperscript{2011} This had the effect of applying the animal SBO provisions to fallen animals as well as to slaughtered animals, and thus to the stock-in-trade of knacker’s yards and to the animals collected by hunt kennels. Notwithstanding this, the 1991 Order did not substitute or amend the regime of movement permits which was laid down in the Bovine Offal (Prohibition) Regulations 1989, and so it continued to be the case that knacker’s yards and hunt kennels were simply subject to the requirements for movement permits in respect of all unsterilised material imposed by the 1982 MSSR.

4.905 Second, the 1991 Order introduced a prohibition on the removal by any person from any premises of any protein which is derived from any SBO, except under the authority of a licence issued by an officer of the appropriate Minister and in accordance with any conditions subject to which the licence is issued.\textsuperscript{2012} The person in charge of the protein being so moved was required to carry the licence during the authorised movement and was required, upon demand by an inspector or a member of the police force, to produce the licence, allow a copy or extract to be taken, and furnish his name and address.\textsuperscript{2013} It was an offence, without lawful authority or excuse, to remove protein derived from any SBO other than under the authority of a licence, to fail to produce a licence on demand, or to fail to comply with a condition of a licence.\textsuperscript{2014} Consequently, in contrast to the position before the 1991 Order, rendered protein derived from any SBO was no longer free to be removed from the premises of a renderer without restriction, despite having been sterilised for the purposes of the Bovine Offal (Prohibition) Regulations 1989.

\textsuperscript{2008} L2 tab 3B Regulation 14(3)
\textsuperscript{2009} L2 tab 3B Regulation 11(3)
\textsuperscript{2010} L2 tab 7 article 9
\textsuperscript{2011} L2 tab 7 article 4(1)
\textsuperscript{2012} L2 tab 7 article 9
\textsuperscript{2013} L2 tab 7 article 16(1)
\textsuperscript{2014} Regulation 17