5. Human health developments: 1 January 1991 to 31 March 1995

Introduction

5.1 In this chapter we examine developments in relation to human health between 1 January 1991 and 31 March 1995. Although, in comparison with other years in the BSE story, this period was relatively quiet in relation to human health, there were nevertheless some significant developments. We take the story up to 31 March 1995, just before the national system of meat hygiene inspection was introduced on 1 April.

5.2 In the first main section of this chapter we examine hygiene standards in slaughterhouses during 1991 to March 1995. We also examine certain aspects of the enforcement arrangements in slaughterhouses, particularly those aspects that received greater attention during this period, largely as a consequence of requirements arising from the European Single Market, and, allied to this, the decision to establish a national system for meat hygiene inspection.

5.3 In the second section, we examine the background to the proposals for a national system of meat hygiene, and how this was largely a consequence of requirements arising from the European Single Market which came into effect on 1 January 1993.

5.4 In the third section, we look at developments in the measures to reduce the potential risks from BSE during this period, including compliance with the Specified Bovine Offal (SBO) Regulations, consideration given to controls on mechanically recovered meat (MRM) and amendments made to the SBO Regulations.

5.5 The fourth section describes developments in knowledge and understanding about BSE during the period. Details of developments in relation to CJD during this period are given in vol. 8: Variant CJD.

5.6 The last section of this chapter looks at the Government’s pronouncements in relation to some of the developments we describe earlier in the chapter, and the reaction of the media and the public.

5.7 Before turning to examine developments concerning slaughterhouses between 1 January 1991 and 31 March 1995, we conclude this introduction by briefly recording some of the changes to the MAFF and DH ministerial teams and officials.

5.8 In MAFF, Baroness Trumpington ceased to be Minister of State (Lords) on 14 April 1992. Mr David Curry was promoted from Parliamentary Secretary
(Commons) to become Minister of State (Commons) on that day. Also on 14 April 1992 Earl Howe became Parliamentary Secretary (Lords), while on 18 April 1992 Mr Nicholas Soames became Parliamentary Secretary (Commons) in place of Mr David Maclean. Mrs Gillian Shephard succeeded Mr John Gummer as Minister of Agriculture, Fisheries and Food on 27 May 1993. The following day Mr Michael Jack succeeded Mr Curry as Minister of State (Commons). On 20 July 1994 Mrs Shephard was succeeded by Mr William Waldegrave, and Mrs Angela Browning took over from Mr Nicholas Soames.

5.9 Changes to MAFF administrators during this period included the retirement of Sir Derek Andrews as Permanent Secretary on 17 February 1993. He was succeeded by Mr Richard Packer. Mr Richard Carden succeeded Mr Charles Capstick as Head of Food Safety Directorate on 18 December 1994. Mr Martin Haddon succeeded Mrs Elizabeth Attridge as Head of the Animal Health Group from 1 November 1994. Mr Robert Lowson was succeeded as Head of Animal Health (Disease Control) Division in April 1993 by Mr Richard McIvor, who in turn was succeeded by Mr Tom Eddy in July 1993. On 1 September 1994 Mr Johnston McNeill became Chief Executive Designate of the proposed National Meat Hygiene Service.

5.10 Among the veterinarians at MAFF, Mr Kevin Taylor became Assistant Chief Veterinary Officer (ACVO) in charge of animal health and welfare from January 1991 onwards. Mr Hutchins became Deputy Veterinary Head of Section in the Meat Hygiene Section (Red Meat) in June 1991, and was succeeded in July 1993 by Mr Peter Soul. Mr Peter Hewson succeeded Mr Walker as Superintending Meat Hygiene Adviser in November 1992.

5.11 In DH, Mr Waldegrave was succeeded as Secretary of State in April 1992 by Mrs Virginia Bottomley. Her place as Minister of State (Commons) was taken by Mr Brian Mawhinney. At the same time Baroness Cumberlege succeeded Baroness Hooper as Parliamentary Under-Secretary (Lords) and Mr Sackville and Mr Tim Yeo became Parliamentary Under-Secretaries (Commons), in place of Mr Dorrell. Mr Bowis succeeded Mr Yeo in May 1993, and Mr Malone succeeded Mr Mawhinney in July 1994.

5.12 Sir Kenneth Calman took over from Sir Donald Acheson as Chief Medical Officer (CMO) in September 1991. Dr Gerald Jones was appointed Senior Principal Medical Officer (PMO) under Dr Metters in the Health Aspects of Environment and Food Division (M) on 1 December 1992. Meanwhile, in September 1991 Dr Ailsa Wight, a Senior Medical Officer (SMO) in that Division, had taken over responsibility for the provision within DH of medical advice on BSE/CJD (Creutzfeldt-Jakob Disease) from Dr Hilary Pickles, reporting to Dr Roger Skinner, head of HEF(M)1. In January 1993 Mr Charles Lister took over responsibility for administrative aspects of transmissible spongiform encephalopathies (TSEs) and the Spongiform Encephalopathy Advisory Committee (SEAC) Secretariat from Mr Murray.
Hygiene standards and enforcement arrangements in slaughterhouses between 1991 and March 1995

Introduction

5.13 Chapter 4 provides a brief description of the arrangements for enforcing meat hygiene standards in slaughterhouses, and the extent to which hygiene standards were achieved during 1990. In essence, enforcement of meat hygiene in slaughterhouses was the responsibility of local authorities and delivered through their Authorised Meat Inspectors (AMIs) and Environmental Health Officers (EHOs) in domestic slaughterhouses and through AMIs and Official Veterinary Surgeons (OVSs) in slaughterhouses licensed for export to the EU. Monitoring of these enforcement activities was undertaken by the State Veterinary Service (SVS). We saw that hygiene standards were unsatisfactory during 1990 – a situation that had changed little, if at all, since the Preston Report in 1985.

5.14 In this section we look first at evidence – a combination of reports and the views of witnesses – in relation to hygiene standards in slaughterhouses during 1991 to March 1995; the evidence suggests a similar picture to the one we saw in 1990. Then we look at certain aspects of the enforcement arrangements in slaughterhouses, particularly those aspects that received greater attention during this period, largely as a consequence of two particular developments. We cover these two developments in more detail later in this chapter, but mention them here to provide necessary context and background to the issues we propose to cover in the current section.

5.15 The first development was the introduction of the European Single Market (also referred to as the Single Market) on 1 January 1993. Among other things, the Single Market extended the enforcement regime that existed in export-approved slaughterhouses to domestic slaughterhouses, thus requiring higher standards for slaughterhouse buildings and equipment and OVS supervision of AMIs in all slaughterhouses. However, it was possible for premises to be granted either temporary or permanent derogations in certain cases. The second development was one of the consequences of the European Single Market, and involved the formulation of proposals, starting in late 1991, for a national system of meat hygiene that was eventually established on 1 April 1995.
Hygiene standards at slaughterhouses during 1991 to 31 March 1995

5.16 In the following paragraphs we set out evidence on meat hygiene standards at slaughterhouses from 1991 to 31 March 1995. We do not intend to provide a comprehensive account of the standards achieved, as there is limited information on this. Instead we set out the hygiene problems identified as a result of three inspection exercises undertaken for various purposes during the period: in March 1993 by Dr A M Johnston and Mr B J Spurr, in early 1994 by EC veterinary inspectors and in July 1994 by SVS inspectors. We also describe examples of what MAFF Ministers, officials and others knew about hygiene standards during the period. Finally, we look at the deregulatory pressures in play during this period and their effect on those seeking to implement meat hygiene requirements.

Evidence available early in the period

5.17 A summary of results of SVS monitoring of red meat premises for 1988–91 showed that the percentage of red meat slaughterhouses with satisfactory hygiene standards were as follows:

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<tr>
<td>Domestic</td>
<td>60%</td>
<td>57%</td>
<td>37%</td>
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<td>Export</td>
<td>73%</td>
<td>71%</td>
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5.18 A footnote to the summary noted:

Method of assessing domestic plants has increasingly taken account of impending single market requirements. The % drop in satisfactory domestic plants reflects, to a certain extent, this change to a stricter assessment. 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.\(^{2020}\)

Evidence available from various inspection exercises undertaken during the period

5.19 In October 1992, MAFF commissioned a review by Dr A M Johnston, a senior lecturer at the Royal College of Veterinary Surgeons, and Mr B J Spurr on the progress made towards compliance with European Single Market requirements, in a small sample of slaughterhouses that had applied for temporary derogations. In March 1993, Dr Johnston and Mr Spurr completed their report, entitled Review of hygiene and structural requirements in a sample of slaughterhouses which have applied for temporary derogations under the Fresh Meat (Hygiene and Inspection) Regulations 1992. In relation to hygiene standards in the small number of slaughterhouses which they visited, the report stated:

We found a wide range of structural and hygiene standards in the plants which we examined.

\(^{2020}\) YB91/00.00/2.1
Some plants clearly did not comply with the previous (1977 Regulations) domestic meat hygiene legislation existing before 1 January 1993. In our view, these plants should not have been put forward for derogations and in fact should have been closed many years ago on public health grounds.

Others fell far short of the previous domestic regulations and have serious shortcomings in their operation when measured against the full requirements.

... Overall, the general level of structure and hygienic operation in the plants which we examined fell below what we would regard as a reasonable interpretation of the new Regulations. Even some plants which have made a significant effort to meet the new requirements still have some way to go. The net result of the completion of the current exercise should be a real improvement in standards. 2021

5.20 From February to May 1994, EU veterinary inspectors undertook surveillance missions to samples of temporarily and permanently derogated slaughterhouses to report on their compliance with derogation and European Single Market requirements. In all, the inspectors visited 57 of the 207 premises operating under temporary derogation at that time, and 16 of the 216 premises operating under permanent derogation at that time. 2022 For further information on EU trade with the UK see vol. 10: Economic Impact and International Trade. 2023 The findings of the report in relation to hygiene standards were as follows:

Overall 68.5% of the derogated slaughterhouses inspected were of some concern. The 31.5% of the slaughterhouses falling in the ‘other’ category were not without deficiencies but these shortcomings were estimated to be of less significance.

A further analysis shows that 25% of the permanently derogated slaughterhouses were of some concern whereas 80.7% of the temporarily derogated plants fell into this category. The vast majority of the latter were in England.

... 1. Poor overall standards

– 68.5% of the derogated establishments visited were classified as being of concern or of grave concern: this is of particular significance in England where 63.5% of the national kill takes place in the derogated establishments.

... 5. Temporarily-permanently derogated establishments

2021 M22 tab 6 p. 6
2022 M22 tab 13 p. 5
2023 M22 tab 13
8. Staff training programmes

– These programmes do not appear to have been generally established.

9. Hygiene checks

– Checks on the general hygiene of the establishments were not, for the most part, carried out.

11. Visibly contaminated carcases were health marked.

5.21 The report also described a meeting with SVS officials on 20 May, when the Commission inspectors emphasised the general difficulties faced by the UK, and in particular (among other things):

(1) the very low standard of the plants seen and the high/frequent occurrence of gross contamination;

(5) the system (non-centralised, contractual, extremely limiting insofar as the official veterinarian [OV] is concerned) which was clearly not working in an effective manner.

5.22 The report states that, in response, the SVS officials:

(1) did not question the facts as reported on-the-spot but disputed the significance of contaminated meat;

(5) in answer to the criticism of the present system, claimed that the advent on 1.4.1995 of the Meat Hygiene Service, which will be an agency of MAFF . . . would resolve the difficulties as it would be centralised. The Chief Executive has been recently selected.

5.23 In respect of the forthcoming transfer of enforcement responsibility to the Meat Hygiene Service (MHS), the report stated:

. . . it is likely that some of the basic problems will not be resolved because the OVs will continue to be employed on a contractual basis, the small amount of time spent by OVs in the plants will hardly alter, it is unclear if
regional managers will be veterinarians and the UK does not seem fully ready to achieve the objectives prescribed by the Directive.\textsuperscript{2027}

\textbf{5.24} During 1994, MAFF introduced a new Hygiene Assessment System (HAS) for slaughterhouse inspections by the SVS. The preliminary findings indicated widespread deficiencies. As a result, on 8 July 1994, the MAFF Parliamentary Secretary, Mr Nicholas Soames,\textsuperscript{2028} wrote to Mr Paul Cheale, President of the Federation of Fresh Meat Wholesalers from 1993 to 1995, and to Mr John Vernon, President of the National Federation of Meat Traders. Copies of the letters were sent to Mr Don Curry, the Meat and Livestock Commission (MLC) Chairman and to Mr Peter Huntington, the Chief Executive of the Meat Training Council. Mr Soames wrote:

I have been considering with officials of the State Veterinary Service and Meat Hygiene Division the results of slaughterhouse inspections using MAFF’s new Hygiene Assessment System. These are, of course, only preliminary findings and further inspections will be needed to provide comprehensive data which can be used to publish meaningful statistics, as we have undertaken to do as part of the move towards greater openness in Government. I am however so concerned about these early results that I think it necessary to write to you now.

The SVS inspectors are finding widespread deficiencies, particularly in the areas of slaughter and dressing and personnel and practices . . . Problems in these areas frequently result in gross contamination of the carcase. They tend to reflect poor standards of workmanship on the part of the slaughtering staff and, very often, lack of management control by the slaughterhouse operators. The HAS scores support the criticisms made by the Commission’s inspectors on their recent visit to derogated plants.

Those plants which received the lowest scores are being revisited urgently and revocation of their licence will be considered if they fail to show a substantial improvement. But there is a real need for improvement in hygiene standards in the majority of premises inspected, not just the worst cases. I hope that your Federation will encourage your members to take this seriously. If we cannot achieve a general improvement there will inevitably be an adverse reaction from the public when statistics on hygiene standards are published towards the end of this year.

Many of the problems which the HAS has identified could be dealt with by better training of operatives on the slaughter line. This is a matter for the industry itself to pursue, but MAFF will of course be very ready to provide assistance and advice. Meat Hygiene Division will be in touch with your Federation very shortly to arrange a meeting to discuss this further; I am sure that I can be confident of your strong support.\textsuperscript{2029}
Examples of what MAFF Ministers knew about meat hygiene standards during the period

5.25 In November 1991, Mr John Gummer, Minister of Agriculture, Fisheries and Food, sent a minute to the Prime Minister, Mr John Major, recommending the creation of a national meat hygiene service in the light of requirements under the European Single Market (as discussed in more detail in paragraphs 5.84–5.93 in this chapter). The minute described, among other things, hygiene standards in slaughterhouses:

At present under the complicated and fragmented arrangements for enforcement, hygiene standards are variable and in a number of cases unsatisfactory.2030

5.26 With his minute Mr Gummer enclosed a detailed paper on meat hygiene enforcement prepared by MAFF, setting out the background and reasons for his recommendation. One section of the paper, entitled ‘Problems with present arrangements’, included the following ‘difficulties’:

iv) Plant standards

SVS monitoring indicates that about 55 per cent of poultry meat plants and some 60 per cent of red meat slaughterhouses do not meet the required standards. Of the plants which are not approved for export to the EC, only 37% of red meat slaughterhouses and 31% of poultry meat slaughterhouses were recorded as satisfactory in 1990. Many plants recorded as satisfactory are only just acceptable, even with regular monitoring and advice from the SVS. In some cases, basic hygiene problems such as failure to sterilise equipment and poor handling of carcases leading to cross-contamination have persisted after repeated written advice from the SVS to the local authority . . .

vi) Inconsistency

Standards of enforcement are uneven across the country. Guidance can of course be given from the centre – and has been given in the past – but liaison arrangements can be cumbersome and costly. Previous attempts to set up Regional Liaison Committees following an earlier review have failed . . .

6. Most of these difficulties have been apparent for some time. They were last examined by the Preston Committee in 1985. At that time the Committee felt that radical changes to the system were not justified and a number of more minor changes were recommended. Not all of these were accepted as practicable by the Government, but those changes which have been made have brought no significant improvements.2031

5.27 In October 1992, Mr Gummer gave evidence about hygiene standards to the House of Commons Agriculture Committee, which was reporting on ‘Progress on the British Presidency and other matters’. He said:
We have real problems with our slaughterhouses. I am not going to name any names, that would be wrong, but I have decided to give an example or two of recent inspections within the last year. On Slaughterhouse A it was reported: ‘Slaughter hall floor heavily soiled with blood, gut contents and other debris – no attempt to clean up between carcasses. Car cleaning brush heavily contaminated with blood and fat being used to wash carcasses. Knives and utensils not being sterilised. Offal rack and carcass rails encrusted with dirt. Missing window panes in roof – birds, flies and vermin entering’. Another slaughterhouse report: ‘Filthy equipment and surfaces – congealed and dry blood on offal racks. Effluent discharging across floor under dressed carcasses – risk of contamination. Slaughterman at cattle sticking point not sterilising knife. No sterilisers or wash basins in pig slaughter hall. No fly screening on open windows’.

He continued

I will not go on any more. There was the presence of cats in one slaughter house, no vermin or fly proofing. I say this to the Committee because I am as unbelievably enthusiastic about not having regulations if you do not need them but the truth is, and I discovered much of this when I had to face the BSE issue, I needed to be able to stand up in front of the public and say when we suggest certain things that they do happen, they have to happen, in slaughterhouses. Those examples have been put right and our inspections get them put right. I cannot derogate from the general standards of the European Community rules because they are necessary to enable the public to have confidence.2032

Examples of what MAFF officials knew about meat hygiene standards during the period

5.28 Mr Peter Soul, MAFF Regional Meat Hygiene Adviser, told us about the differing standards in slaughterhouses. He said that during his time in this post:

I visited a large number of premises and I had a very good idea of what the standards were. At that time, of course, there were a number of export approved premises and in general they tended to have much better standards than the domestic plants, but we had visits from Commission Inspectors to the export approved premises, who inspected them and told us what they thought of the standards in those parts and in their view, again in general, the standards in our export approved plants were not as good as they believed they should be.2033

5.29 Mr Soul was asked whether he agreed with the findings of a visit by EU inspectors to derogated slaughterhouses in 1994, which found that 68.5 per cent of these slaughterhouses had poor overall standards, and were classified by the inspectors as being of concern or of grave concern. He told us:

In terms of the standard against which they were being assessed by the Commission Inspectors, then I would have to agree with that.2035

2032 YB92/10.28/1.2–1.3
2033 T37 p. 29
2034 See footnote 2024
2035 T37 p. 87
5.30 When asked a further question about the standards Mr Soul himself would have used to assess these premises, he said:

My belief is that the standard that the Commission use to assess premises is the correct standard.2036

5.31 Ms Bronwen Jones told us that from late 1989 to April 1992, when she was Head of the Red Meat Hygiene section (Branch C) of MAFF’s Meat Hygiene Division:

We were certainly conscious that hygiene standards in slaughterhouses were not good . . . So I think we were aware of poor standards, but I could not say whether those were entirely attributable to enforcement or to plant management.2037

5.32 When asked about whether standards had changed, if at all, during the period when she was in post, Ms Jones replied:

I do not think they got worse, to the extent that over the period we did introduce some of the pre-single market requirements. For example, ante-mortem inspection was introduced [to domestic slaughterhouses] prior to the single market. To that extent, standards ought to have improved, but I certainly do not think there was any more decline.2038

5.33 Ms Jones told the Inquiry in oral evidence that she had never visited an abattoir while Head of Branch C.2039

5.34 Mrs Jane Brown (Head of Meat Hygiene Division since September 1990) told us that in the early 1990s MAFF was becoming increasingly concerned about hygiene standards in red meat slaughterhouses because of the emergence of E-coli 0157:

At around the time that I came into the Meat Hygiene Division I think there was another factor which was making us increasingly concerned about hygiene standards in red meat slaughterhouses, which was the emergence of E-coli 0157, which was a new problem. It caused a severe outbreak in the United States and it was something that we did not know a great deal about at that time, but we realised that here was a problem from which a very small dose could cause very serious illness. So that was a new factor which made us look with more concern than perhaps we might have done five or ten years earlier at hygiene standards in red meat slaughterhouses.2040

Examples of what others knew about meat hygiene standards during the period

5.35 We have set out in Chapter 4 the graphic evidence of Dr Alan Long, of VEGA.
Certain unsatisfactory aspects of enforcement arrangements in slaughterhouses

5.36 In the following paragraphs we look at certain aspects of the enforcement arrangements at slaughterhouses which received greater attention during 1991 to March 1995. Because there is only limited primary evidence on this, much of what follows is based on the perceptions of witnesses, as presented in statements or discussed at the hearings. In particular we look at general difficulties with enforcement and the relationships between the various bodies involved: AMIs, EHOs and OVSs.

General difficulties with enforcement in slaughterhouses

5.37 On 31 January 1992, as part of the work to develop proposals for a national system of meat hygiene enforcement (ie, the MHS), Mrs Jane Brown forwarded a paper to Mr Andrew Whetnall, Head of the Machinery of Government Division, Cabinet Office (1989–96). This noted difficulties within slaughterhouses based on the system of enforcement in place at that time:

Premises are monitored by staff of the State Veterinary Service (SVS), who offer advice to the local authorities on standards and interpretation of the rule but have no powers to ensure that this advice is followed in domestic plants, although powers to suspend or withdraw export approval exist in relation to EC-approved red meat plants.

The present system of enforcement following licensing is ill equipped to meet the more demanding standards of the new EC rules; to provide effective veterinary supervision; or to satisfy the EC Commission.

The State Veterinary Service, who monitor standards, have no real control over LAs. The Official Veterinary Surgeon, who is usually contracted to the LA as part of the present LA meat hygiene team on a part-time basis, has little real management control over the meat inspectors in the plant.

Standards of enforcement are uneven across the country. Guidance can of course be given from the centre – and has been given in the past – but liaison arrangements can be cumbersome and costly and no effective method of securing co-operation between the local authorities and the State Veterinary Service on a nation-wide basis has been found. Previous attempts to set up Regional Liaison Committees following an earlier review have failed. The industry is becoming increasingly aware of – and critical of – inconsistency of standards across Great Britain.
5.38 Mr Johnston NeNeill, Chief Executive Designate of MHS, told us in a written statement that many local authority staff working in licensed slaughterhouses did not have a ‘robust enforcement culture instilled into them’. In oral evidence, he explained that background work to develop an enforcement hierarchy for the MHS had revealed a relaxed approach to enforcement by local authority meat inspectors and OVSs. He said:

... We endeavoured to find out what level of enforcement activity had been employed by local authorities in enforcing the regulations and were unable to get any clear picture, although it did not appear to be of any great substance. And in discussions with staff, particularly as we took a much more robust enforcement line, on issues such as presenting carcasses with spinal cord present and what not, it became apparent to us that there was, I think it would be fair to say, a reluctance on the part of some of our veterinary surgeons and indeed meat inspection staff to move down this more formal enforcement road... in previous cases it had been perhaps a more relaxed approach to enforcement.

5.39 In Chapter 4 we described the evidence of Mr Richard Lodge, Head of Food and Health and Safety for Birmingham City Council since 1993, in relation to the Preston Report’s comments on the variation in the level of enforcement of hygiene standards between slaughterhouses.

Relationship between local authority environmental health departments (EHDs) and their meat hygiene staff (AMIs and OVSs)

5.40 As described previously, during the period covered by this chapter, local authorities’ EHDs employed AMIs and OVSs for meat hygiene inspection work at slaughterhouses.

5.41 Mr Soul considered that the AMIs were largely left to their own devices:

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.

5.42 Mr Lawrence, MAFF, MHS Project Team, told us about the findings from investigations by the MHS Project Team into local authority enforcement arrangements. Among other things, the investigations determined that there were over 1,000 meat inspectors working for over 300 local authorities. He said that:
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 parts 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. 2047

5.43 Mr Lawrence also told us that, in setting up the MHS, MAFF sought to overcome these difficulties:

We wanted to overcome some of the difficulties we had identified with local authorities, we wanted clear lines of communication, we wanted team work. We wanted better relations with plant management, not too close, not cosy, but it is essential to have good working relations with plant management. If there are problems identified, they have to be dealt with and they have to be dealt with quickly. 2048

5.44 We have recorded in Chapter 4 comments by Mr Andrew Fleetwood on lack of support for OVSs from the local authority and difficulties about the relationships between OVSs and AMIs.

5.45 Mr Cheale and Mr John Baker, his predecessor as President of the Federation of Fresh Meat Wholesalers, also told us about friction between OVSs and EHOs. The following exchange took place:

MRWALKER: We heard evidence from the Environmental Health Officers last Friday that they thought the OVSs were superfluous, they were not doing anything that a Environmental Health Officer could not do.

MR CHEALE: I will not be glib and say that we thought a lot of the Environmental Health Officers were superfluous as well. I think there was a bit of friction if you like when the Environmental Health Officers saw much of what they considered to be their job going over to the OVSs in export plants, and then obviously later on to every plant.
MR WALKER: Yes. We also talked a little bit to the Environmental Health Officers about the distinction between using an Environmental Health Officer and using the meat inspector and the picture that emerged was that there would be the use made of both Environmental Health Officers and meat inspectors for the purposes of meat inspection. Did that vary in your experience from region to region, or plant to plant?

MR BAKER: I would say from plant to plant, yes. As far as the bigger plants were concerned I mean we had our own meat inspectors, a team of meat inspectors, whereas a smaller plant would be using slaughtering at different times of day, whatever, not necessarily all week, and they would be controlled by the local EHO as against the meat inspector. So it varied really between the size of the plant mainly.

MR WALKER: Did this have any impact on your operations whether you were dealing with a meat inspector or an Environmental Health Officer?

MR CHEALE: Well, we always dealt with the Environmental Health Department, you know. If we were exporting we had to have a vet anyway.2050

Tensions arising from the EC requirement for veterinary supervision at slaughterhouses exporting to other Member States

5.46 Some witnesses told us of a long history of tensions arising from EC requirement for veterinary supervision, through OVSs, at slaughterhouses licensed to export to other Member States. Mr Alistair Cruickshank, MAFF Under Secretary, told us that at the time these requirements were introduced in the 1970s:

. . . throughout the rest of the community meat hygiene was solely a veterinary responsibility and they expected us to adopt the same system. In the UK it was not a veterinary responsibility, it was the responsibility of the Environmental Health Departments. In practice the work of the actual meat inspections was done by authorised meat inspectors but they were supervised by the Environmental Health Officers. The Environmental Health Officers wanted to retain that role and they got political support for this, and MAFF was therefore arguing in Brussels for Environmental Health Officers to have the responsibility for supervising hygiene in the slaughterhouses.

This was extremely unpopular with the veterinary service as you might expect, as they believed they were the professionals with the right qualifications to supervise hygiene in the slaughterhouses. There was no support whatsoever from the rest of Europe. There was a good deal of enmity between the veterinary profession and the environmental health officers on the meat hygiene issues in the 1970s. This did drag on to some extent. It coloured relationships, I think, between the Ministry and the district councils. It got a bit better, I think, in the early 1980s. Certainly we had a high regard for a number of the Environmental Health Officers and some of the district councils. On the whole the feeling was that the standards of
hygiene in slaughterhouses was pretty low in the UK, a good deal lower than most other developed countries. 2051

5.47 Mr Graham Jukes of the Chartered Institute of Environmental Health (CIEH) told us that the introduction of veterinary supervision in export-approved slaughterhouses during the 1970s created difficulties with MAFF. He stated:

... within mainland Europe the so-called animal of an Environmental Health Officer is not readily recognised as being a fit and appropriate person to carry out and authorise meat and meat inspection, principally because they use veterinary personnel who are not to the same level of qualification as veterinary surgeons within the UK, and would be regarded, certainly we regarded them as equivalent to EHOs and meat inspectors. However, our colleagues in MAFF could not and did not support the view of the Chartered Institute that we were equivalent; and therefore the debate that occurred during that period meant that if export slaughterhouses were to export and continue exporting then local authorities had to employ Official Veterinary Surgeons to authorise the fitness of the meat and the products, Environmental Health Officers and meat inspectors worked alongside Official Veterinary Surgeons within that process. But I think it caused a considerable amount of conflict at the time, and concern within the profession that we were not being regarded as perhaps we felt we should be... local authorities experienced great difficulty in employing OVSs... and while many of our colleague OVSs were extremely competent and good at what they were doing, they were very much at the top of the chain, and sitting alongside EHOs and meat inspectors carrying out that function and literally just putting a stamp on after the work had been done. I defer to my veterinary colleague on the left as to whether or not that is the right inference to put on it. But certainly from the Chartered Institute’s perspective many of the concerns raised with us in the 1980s were about the superfluousness of this particular process. I think in one of our papers we have described it as a meaningless paper chase. 2052

5.48 Dr Joseph Gracey, Editor of the seventh edition of Thornton’s Meat Hygiene, 1981, commented on the different professionals involved in meat inspection (EHOs, AMIs and OVSs). He told us:

There has been, I have to say, a bit of interdisciplinary rivalry which I deplore. As far as I am concerned, the people who should be inspecting meat are those who go through a proper form of training which is, at the moment, inadequate in a lot of areas. 2053

Relationship between slaughterhouse operators and OVSs and the SVS

5.49 We have recorded in Chapter 4 evidence by Mr Fleetwood about circumstances which encouraged an attitude of some slaughterhouse operators that OVSs interfered in the running of the business, and his experiences that standards in some slaughterhouses lapsed when veterinary supervision was not present.
Earlier in this section we looked at the findings of the 1993 report by Dr Johnston and Mr Spurr in relation to hygiene standards in a sample of slaughterhouses operating under temporary derogation (provided for under the terms of the European Single Market, as discussed later in this chapter). The report also drew attention to problems between slaughterhouse operators and the SVS in relation to progress towards achieving compliance with the European Single Market requirements:

We found considerable confusion existed within the industry on many points. There was total apathy from some operators who still do not believe that the single standard (even in hygiene) will ever be achieved.

While the plants are operating under the three year extension there is little, if any, evidence of any work in hand or planning at a sufficiently advanced stage to be able to agree their work plan for derogation prior to 18th April 1993. We urge the State Veterinary Service to make every effort to obtain the co-operation of individual operators to overcome that problem.2054

We found wide variation in the approach which had been adopted by Veterinary Officers in discussing the future work plan requirements with individual operators . . .

There had been instances of poor communication between State Veterinary Services and operators. Differences in approach included, for example, the level of written comment and confirmation of requirements between individual officers, and where the responsibility for producing work plans lay. In some cases, we found a greater emphasis on structural requirements and variation in interpretation of points of detail, when, in our opinion, there was a more pressing need to tackle basic hygiene problems.

We are convinced that State Veterinary Service Officers were not consistent and, in some cases, firm enough in their requirements to plant-owners and operators.2055

The report expressed concerns about the provision of OVSs:

We were very concerned to find little evidence, in most cases, of any attempt to provide an integrated meat inspector/veterinary service or to relate hours of attendance by Official Veterinary Surgeons to throughput and standard of hygiene or on an assessment of risk. In many cases, the Local Authority appeared disinterested . . .

We see a real need for an integrated meat inspection/veterinary service to enforce the new Meat Hygiene Regulations. We are encouraged by the decision that the National Meat Hygiene Service will be established in 1995 and see this going a long way to improving matters. There is the potential for
a real improvement. We see scope for the Meat Hygiene Headquarters and State Veterinary Service to take a stronger lead in managing the transition and encouraging better integration of the Official Veterinary Surgeon/Meat Inspector role in the hygienic operation of the plant in the interim.\textsuperscript{2056}

**Relationship between the SVS and EHOs**

5.52 Mr Richard Packer, MAFF Permanent Secretary, told us about SVS’s limited powers of enforcement before the MHS was introduced. He said:

So far as MAFF is concerned, though the SVS monitored enforcement in slaughterhouses before 1 April 1995, it did not have full legal powers to back this up (indeed, it did not even have formal powers of entry). Rather, it could only point out deficiencies to local authorities and leave action to them. This was not wholly satisfactory since pointing out deficiencies was in itself an implicit criticism of the enforcement activities of the same local authorities . . .

The SVS was not resourced to undertake work which was the responsibility of other authorities; and could only do so to the detriment of other work.\textsuperscript{2057}

5.53 We referred in Chapter 4 to the oral evidence of Mr David Taylor\textsuperscript{2058} about the role of the SVS. We note here what he told us about the relationship between MAFF Meat Hygiene Veterinary Officers and EHOs. He said:

In some places, the relationship between the EHO . . . and the veterinarian was extremely good . . . 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.\textsuperscript{2059}

5.54 In July 1993, Mr Charles Capstick, MAFF Head of the Food Safety Directorate, sent a submission to Mrs Gillian Shephard, the Minister for Agriculture, briefing her on the background to the decision to establish a national meat hygiene service (as discussed later in this chapter). The submission stated:

Meat hygiene enforcement had been a troublesome area ever since the UK joined the Community. The British tradition of using Environmental Health Officers (EHOs) rather than veterinarians to supervise meat inspection is not acceptable to other Member States or to third countries [non-EC Member States]. A system of veterinary supervision was therefore put in place, alongside the local authority EHO – supervised inspection arrangements, in meat plants which wished to export. This was bureaucratic and costly to the industry, and failed to satisfy the Commission inspectorate because of problems with:

a) **accountability** – for the purposes of international trade, an effective system whereby the central veterinary authority can guarantee standards in

\textsuperscript{2056} M22 tab 6 p. 11
\textsuperscript{2057} S287 Packer paras 36–8
\textsuperscript{2058} Veterinary Head of Section of Meat Hygiene Section (Red Meat)
\textsuperscript{2059} T34 p. 72
plants and deal with any complaints is required. The present local authority based system does not provide a clear line of accountability to the SVS, and necessitates a high level of monitoring which is burdensome for industry and expensive for MAFF.

b) management control of the inspection service – the Commission inspectors are critical of the line management arrangements in most local authorities. Meat inspectors are normally line managed by the EHO; the Official Veterinary Surgeon (OVS) is generally employed on a contract basis and has no real management control. This in turn makes it difficult to maximise the use of meat inspectors to save on costly OVS time. It also requires a very lengthy chain of communication from MAFF via the Chief Executive and CEHO to the OVS and inspection staff in the plant.

c) inconsistency – standards of enforcement in meat plants have varied widely across the country, despite repeated attempts to improve liaison between the State Veterinary Service and local authorities.

d) costs – the meat inspector/EHO/OVS structure is expensive and differing enforcement and charging policies have led to wide variations in charges and widespread dissatisfaction in the industry.

**Shortage of veterinarians for meat hygiene inspection duties**

5.55 Prior to the introduction of the European Single Market on 1 January 1993 (see paragraphs 5.88–5.94 for further information), only slaughterhouses exporting meat had to comply with EC regulations that required meat hygiene supervision to be undertaken by veterinarians. After 1 January 1993, veterinary supervision was required at all slaughterhouses.

5.56 Even before the extension to domestic slaughterhouses, there had been shortages of OVSs in export-approved slaughterhouses.

5.57 The problems local authorities faced when recruiting veterinarians were noted as part of the routine preparations immediately before the general election of 9 April 1992. These preparations included a draft submission sent on 2 April 1992 by Mr G P Hobrough, G Division, Meat Hygiene Division, to Mr Martin Haddon, Animal Health and Veterinary Group. The draft, entitled ‘National Meat Hygiene Service – Draft Submission for a Labour Administration’ noted the following on current staff resources:

Meat Hygiene work as presently organised is not very attractive to vets, not least because they lack a clear role within the local authority and are not in a position to take responsibility for the hygiene standards in the plants. With some 300 additional vets likely to be required after 1992 in order to provide the inspection level required in EC rules, recruitment and retention of sufficient veterinary staff will be difficult unless a more satisfactory organisational structure can be achieved.

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2060 YB93/7.07/1.4–1.5
2061 YB92/4.02/5.5–5.12. The draft was circulated to Mr Meldrum, Mr Crawford, Mrs Brown, and Mr Baker (among others)
2062 YB92/4.02/5.6
5.58 On the same day, Mr Capstick met with Mr Brian Dickinson, Under Secretary, Head of Food Safety Group, MAFF, and Mr Jim Humble of LACOTS. The minutes of the meeting recorded that Mr Capstick ‘expressed concern about the inadequacy of the present regime of [local authority] meat inspection which had become an issue of serious Ministerial embarrassment’.

5.59 Problems with staff resources and the implications for slaughterhouses were discussed at a meeting of MAFF officials and local authority representatives on 6 October 1992. Local authority representatives expressed their concern about the shortage of OVSs, and were anxious to know what assistance MAFF would provide. Mrs Brown, who chaired the meeting, was reported as saying ‘there ought not be an overall shortage given the numbers trained over the last four years’. She could not give a commitment that MAFF Veterinary Officers (VOs) would be available to carry out ante-mortem checks.

5.60 Miss Allan (Institution of Environmental Health Officers – IEHO) asked whether authorities should take out insurance policies to compensate plants that could not operate because of local authorities’ failure to provide an inspection service. Mrs Brown was reported as saying that MAFF did not expect to close plants for this reason, and that competent vets from EC Member States could be granted emergency designations to work in plants.

5.61 On 10 December 1992, MAFF invited LACOTS to consider whether local authorities might welcome MAFF assistance in the recruitment of OVSs from other Member States to fill vacancies within the UK.

5.62 In oral evidence, Brian Etheridge (formerly of the Association of District Councils) told the Inquiry of the difficulties local authorities faced employing OVSs:

... local authorities were having enormous difficulty in securing the offices of veterinary surgeons. Those that they did were often engaged in private practice and therefore were not able to spend the greatest part of their commitment to this post. Some local authorities were also complaining to us that once at the plant they were unsure of their responsibilities, were not entirely sure why they were there. And local authorities, I think sadly, in a way, did not encourage the employment of these vets to become part of the management system of the local authority, so perhaps understandably they felt slightly detached and confused.

5.63 The 1994 report by EC veterinary inspectors of the results of their surveillance missions to UK slaughterhouses operating under derogation (as discussed above in paragraphs 5.20–5.23 in relation to hygiene standards) commented that ‘OVSs were insufficient in number and in presence ie, the slaughterhouses were not supervised in accordance with the Directive’. The report went on to describe how the inadequacy of the veterinary supervision was exacerbated by the following factors, some of which we have mentioned earlier in this section:

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Notes:
2063 YB92/4/03/0.1
2064 Local Authorities Co-ordinating body on food and Trading Standards
2065 YB92/10.06/1.1
2066 YB92/12.10/2.1
2067 T65 p. 63
2068 M22 tab 13 p. 6
The OVS line-managers were non-veterinarians who themselves were not line-managed by the State Veterinary Service of MAFF;

AMIs and EHOs are not placed under the authority and responsibility of the OVS who is therefore not assisted by auxiliaries;

OVSs are employed by local authorities in such a way that their role is considerably reduced vis-à-vis the requirements of the Directive, and in some cases virtually confined to that of assessing certain animals at ante-mortem inspection;

Since local authorities employ individual OVSs, practices containing OVSs or companies employing OVSs, there is no guarantee of continuity and there is little if any coherence in terms of veterinary control.2070

Deregulatory pressures in Government and the effect on meat hygiene

5.64 The Conservative Government began emphasising the need for Government Departments to identify options for removing regulatory controls, as part of the policy on ‘lifting the burden from business’ during 1992. This deregulation initiative was often at odds with the enforcement of meat hygiene standards within slaughterhouses, particularly with the move towards the higher standards required by the approaching European Single Market.

5.65 On 13 October 1992, Mr Gummer discussed with Mr Derek Andrews, MAFF Permanent Secretary, Mr Capstick, and other MAFF officials the enforcement of regulations in relation to red meat hygiene, particularly in the context of the soon-to-be-introduced European Single Market. A minute describing their discussion stated:

Overall, the Minister said that he wished to give a policy steer. The mood of the public had changed; they were now more worried about overzealous enforcement than about the risk of food poisoning. MAFF’s policies should therefore be as relaxed as possible while still protecting public health. In particular, it should not be suggested that the problem of over detailed enforcement was due to the EC.2071

5.66 The approach to food safety in light of the Government’s emphasis on deregulation was highlighted on 3 November 1992, when representatives of DH, including Baroness Cumberlege, Parliamentary Under-Secretary of State,2072 met with Mr Soames, Mr Capstick and other representatives of MAFF. The minutes of the meeting recorded:

Ministers agreed that EC directives now dictate the content of much UK food safety legislation. The impact of many vertical (i.e. product specific) directives was proving burdensome on the food industry as was the way the FSA and hygiene regulations were being enforced . . . Ministers agreed there should be a joint policy in the light of the Government’s drive for

2070 M22 tab 13 pp. 6 and 9
2071 YB92/10.14/1.1
deregulation and the avoidance of undue burdens on business, to ensure that legislation was not enforced over-zealously at the local level. Two tests of any proposals were, in Lady Cumberlege’s view, whether there was a serious health problem and what the effects were on industry (since unemployment could lead to ill health). Mr. Soames agreed that both Departments should work jointly for a less regulatory approach to food safety, provided that public health was protected. It was agreed that there was a need to have particular regard to small producers.

5.67 The Prime Minister, Mr John Major, in a letter to Mr Gummer dated 30 November 1992, described his views on the need for deregulation, and the role of meat hygiene controls:

   . . . I am absolutely determined to reduce the burden of regulation on business. The regulatory burden we are imposing on business frustrates enterprise, innovation and growth. Regulations result in lost jobs, reduced international competitiveness and higher public expenditure. We must change all this.

   . . .

   We also need to look at the new rules on meat hygiene which have caused alarm to local business, including butchers and village shops selling meat. Do we go too far in bowing to EC pressure on such things?

5.68 The Government’s approach to deregulation was again highlighted on 2 February 1993, when the DTI issued a press release entitled ‘Government goes to war on red tape’. Michael Heseltine, President of the Board of Trade, was quoted as follows:

   There is general agreement across the Government that the time has come to weed out the sort of regulation which is over-bureaucratic and places excessive burdens on business and on the public.

5.69 Deregulatory achievements since April 1992 and proposals for further deregulation were listed, including a proposal of ‘easing controls on small slaughterhouses’.

5.70 Deregulation in the face of the forthcoming European single standard in meat and its effect on meat hygiene was raised on 1 April 1993, when a Steering Committee establishing the MHS had its first meeting. The minutes noted that Mr Keith Meldrum, CVO:

   . . . did not accept that implementation of the Fresh Meat Directive was an example of over-regulation. Local authorities had failed to maintain standards of hygiene of operation in domestic slaughterhouses and in many cases, visits by EC Inspectors would result in demands for closure.
5.71 On 22 October 1993, the MAFF Parliamentary Secretary, Lord Howe, announced a seven-point plan of deregulation. Mrs Brown described it in her statement to us:

This plan . . . included the introduction of a slaughterhouse performance monitoring system (the Hygiene Assessment System or HAS) designed to focus the attention of the enforcement officers on real hygiene risks and to promote consistency of enforcement in the run-up to the MHS. This system focused on the general requirements of the hygiene legislation and did not specifically assess handling of specified bovine offal which at this point was not perceived as a key public health (as opposed to animal health) problem.

5.72 Mr David Taylor, Head, Red Meat Hygiene Veterinary Section, and Mr Alick Simmons, Senior Veterinary Officer (Red Meat) Division, Meat Hygiene Veterinary Section, SVS, discussed the role of the SVS in implementing the move in slaughterhouses towards the standards in meat hygiene required under the European Single Market. This role was often in conflict with the deregulation initiative. In evidence to the Inquiry, Mr Simmons told us:

It is worth pointing out we were also working in a culture in which ministers had made public announcements where they said that veterinary officers will be sensible pragmatic and flexible in their interpretation of the legislation when it comes to licensed slaughterhouses. That message could not be ignored.

5.73 Mr Taylor said:

In 1992, we were given a very definite political steer by the then Minister that – I forget the exact words – but it was something to the effect that the public was more concerned with over-zealous implementation than with – and I think it was public health issues, or something of that sort. But certainly the first part of the statement was that the public was more concerned with over-zealous implementations. And the RMHAs in the field who were carrying out the licensing responsibility were despondent because they were being asked to license plants which, in their opinion, were not always fit to be licensed and there was the possibility for derogation for a period of years after 1st January 1993. A large proportion of the slaughter industry took advantage of that opportunity. And the RMHAs were then required to advise them of what standards they needed to reach in order to obtain a licence.

So that was the background, that was the atmosphere in which they were trying to give this advice. It was not a happy time.

5.74 Mr Mike Ashley and Mr Mark Du Val, representing local authority organisations, told us of their concerns at the deregulation drive and the problem...
that it represented for local authorities in enforcing food and meat hygiene regulations:

MR ASHLEY: . . . It was something I was concerned with at the time. The associations, indeed the associations were concerned about the Government policy in respect of a strong deregulatory campaign, and also the linked – I think they bounced off each other – and the linked sort of media campaign that was run. It was particularly associated with an Observer journalist Mr Christopher Booker who wrote a series of articles around this time, who very much portrayed local authority enforcement officials as ‘little Hitlers’. That in many ways picked up and reflected an increasing Government campaign to go for so-called ‘light touch’ regulation.

Another feature of it which is very clearly linked was that following many of the food scares of the late 1980s, that had been part of the reason why a quite robust Food Safety Act was brought in in 1990, which tried to, in a sense, push the pendulum towards regulation, but a couple of years later the Government was clearly signalling in various ways that a pretty light touch in applying this and many other regulations ought to be used. And frankly it did contribute to a considerable level of confusion and concern in the regulatory enforcement community generally about what they were supposed to do. On the one hand there were many concerns, environmental and food safety, that people were concerned about, and on the other Government was giving some very strong signals that business could be relied on to look after their own regulation and that local authorities ought to apply a pretty light touch.

SIR NICHOLAS PHILLIPS: How was that message coming across to the local authorities? You said in various ways?

MR ASHLEY: Ministerial speeches. I think – I cannot recall any specific circulars that colleagues perhaps can. There is no question that the Government Ministers were making it clear in various ways that they wanted to signal a much more deregulatory approach.

SIR NICHOLAS PHILLIPS: Was this message in any way being conveyed by MAFF officials?

MR DU VAL: I think the answer to that is yes. MAFF actually published a deregulation plan which set out very clearly MAFF’s views on these things. I think because a lot of the media attention seemed to be focusing on food related matters, partly because at the time one was seeing a significant upheaval in food legislation and the product specific Directives being implemented and things like that. So I think yes, people did very much link it to MAFF as being one of the loudest voices in that area.2087

5.75 Mrs Brown, in oral evidence to us, discussed the pressure on MAFF to proceed with improving the enforcement methods in slaughterhouses and introducing the MHS, in a political climate of deregulation:

2087 T65 pp. 67–8
The deregulation initiative was a very important part of Government policy during 1992 onwards, and it did mean that all the regulations we were responsible for were under very close scrutiny, and we needed to be very clear that everything we were doing was properly justified on public health grounds and was not simply regulation for the sake of regulation, and was not being enforced overzealously, which is rather different from being enforced properly. That meant that we were very much under scrutiny in everything we were doing in relation to setting up the hygiene service and slaughterhouses, and constructing some fairly robust arguments to try and satisfy other parts of Whitehall that our policy of tightening up on enforcement in slaughterhouses would actually deliver public health benefits.\textsuperscript{2088}

5.76 Mr Soul told us that in relation to the work leading up to the introduction of the MHS in 1994 and 1995:

I have to come back to this constant conflict which existed throughout that period between seeking deregulation, but at the same time seeking the highest possible standards.\textsuperscript{2089}

Discussion

5.77 We have described the standards of meat hygiene in slaughterhouses in the period up to 31 March 1995 in some detail. We have also described the system for enforcing the various statutory regulations that applied to slaughterhouse operations. These set the context in which the SBO Regulations fell to be implemented and enforced.

5.78 It is important to appreciate that the shortcomings that we have described in the first part of this chapter related to general standards of hygiene. During the period covered by this chapter there were no reports that criticised the task of removing from the carcass those tissues that were unfit for human consumption and, in particular, the specified bovine offal (SBO). Nor was there criticism during this period of the performance by the meat inspectors of their duty to ensure that all such tissues had been removed, before the health stamp was applied to indicate that meat was fit for human consumption.

5.79 Our initial reaction was that poor standards of general hygiene were likely to be accompanied by similarly poor standards of removal of SBO and that if those responsible for enforcing hygiene regulations were failing to do so they would be likely to be demonstrating a similar laxity in ensuring that matter unfit for human consumption was removed in accordance with the Staining and Sterilisation Regulations and the SBO Regulations.

5.80 The evidence has persuaded us that this initial reaction was unfounded. When the MHS replaced the hundreds of local authorities responsible for regulatory enforcement in slaughterhouses, an internal audit of standards of implementation and enforcement of the SBO Regulations became possible. Monitoring by members of the SVS was also facilitated. Shortcomings in the removal of spinal cord were identified. These are described in Chapter 6 of this volume. Annex 1 to that Chapter
shows that in the nine-month period from July 1995 to March 1996 segments of spinal cord were found by SVS staff on 23 occasions, involving 22 slaughterhouses. In most instances these were in portions of carcass that had been health stamped by the meat inspector. By a process of extrapolation it has been calculated that, on average, segments of spinal cord were probably left unremoved in four cases out of 1,000. 2090

5.81 Four cases out of 1,000 are four cases too many. But this is not a picture of a widespread failure to comply with the Regulations requiring removal of SBO from that part of the carcass going into the human food chain. We do not think it is in any way comparable to the failures to comply with hygiene requirements. On the contrary, it suggests that in general the removal of the spinal cord was carried out efficiently and effectively. We have commented in Chapter 3 on the inevitability of the occasional failure to remove spinal cord, an inevitability that was recognised by the paper on slaughterhouse practices prepared for SEAC’s sixth meeting, which we have discussed in Chapter 4.

5.82 The results of the SVS surveillance in 1995, coupled with those of the Eville & Jones Survey (see Chapter 6) and of the MHS internal Hygiene Advice Team survey (see Chapter 6) indicate that, in a small minority of slaughterhouses, inadequate attention was paid to the requirement to remove all of the spinal cord. We do not find this surprising.

5.83 The fact that meat inspection was a responsibility shared among so many different authorities and exercised in such a wide variety of slaughterhouses would have made it difficult, if not impossible, for MAFF to bring about a significant improvement in standards of implementation and enforcement of the removal of the spinal cord beyond those described above. In the event, MAFF did not attempt to do so until after the introduction of the MHS. This was because it was only then that failures to remove spinal cord were reported and attention was focused on the significance of these. At the same time the existence of a single enforcement authority enabled effective measures to be taken, including the injection of additional resources, which enabled 100 per cent removal of the spinal cord to become a realistic target.

5.84 With one exception, 2091 the Veterinary Field Service (VFS) failed to report any failures to remove spinal cord during the period 1990 to 31 March 1995. We will consider the reason for this failure after we have described the events leading up to the institution of the MHS.

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2090 See Chapters 4 and 6 of this volume
2091 The report by Mr Webster at YB90/11.20/1.1–1.9 is described in Chapter 4 of this volume
The background to the proposal for a national system of meat hygiene

Introduction

5.85 This section discusses the decision to establish a national system of meat hygiene enforcement in the form of the Meat Hygiene Service (MHS), which was introduced against a background of various, and often conflicting, factors. One of the main factors behind this decision was the establishment of the European Single Market. In this section we look first at the European Single Market and its effects in slaughterhouses before going on to describe the development of the MHS.

5.86 The establishment of the MHS was not part of the response to the emergence of BSE. It had, however, considerable impact on enforcement of the SBO Regulations and is an important part of the BSE story. This section of our report is of relevance when considering the standards of implementation of the SBO Regulations prior to the introduction of the MHS.

5.87 The decision to introduce the MHS came shortly before the Conservative Government’s deregulation initiative described earlier in this chapter. The establishment of the MHS was promoted by MAFF as consistent with deregulation. However, it attracted opposition from the meat industry, local authorities and politicians from both sides of the House. Despite this opposition, the Government was persuaded that it should continue with its policy of establishing the MHS. On 1 April 1995, the MHS became the responsible authority for enforcing meat hygiene standards within the meat industry.

The European Single Market

5.88 On 29 July 1991, the Council of the European Communities adopted Directive 91/497.2092 This was one of a number of measures for the gradual establishment of the internal market (or ‘European Single Market’) over a period expiring on 31 December 1992. Arrangements were already in place2093 for the abolition of veterinary checks at frontiers between Member States. In order to take account of this and to introduce more stringent guarantees at origin (it being no longer possible to distinguish between products for the domestic markets and products to be marketed in another member state), the Directive sought to harmonise the conditions under which meat2094 was declared unfit for human consumption. In general terms, this meant that all slaughterhouses and meat-cutting premises would have to comply with EC rules on hygiene and inspection. There would no longer be any distinction between the regulation of meat for the domestic or export market. Member States were to bring into force the laws and regulations necessary to comply with the Directive by 1 January 1993. The European Single Market is discussed in further detail in vol. 14: Responsibilities for Human and Animal Health. The differences between slaughterhouse practices in domestic and export meat production are discussed in Chapter 4 of this volume.

2092 L18 tab 19
2093 Directive 89/662/EEC (L18 tab 11)
2094 The categories of meat in question included that from bovine animals
5.89 The Government also decided that to implement the EC requirements under the Single Market, the Agriculture Ministers should be responsible for licensing all slaughterhouses and meat production premises\textsuperscript{2095}, and from 1 January 1993 the provisions of the Fresh Meat (Hygiene and Inspection) Regulations 1992\textsuperscript{2096} took effect. The Regulations made the Minister of Agriculture, Fisheries and Food (and the Secretaries of State in Scotland and Wales respectively) responsible for licensing all slaughterhouses.\textsuperscript{2097}

**Derogation from Single Market requirements**

5.90 The requirements of the Single Market meant that for many slaughterhouses within the UK, their facilities and operational standards would have to be improved, if they were to remain licensed to operate. There were concerns within the Government and industry that this would force smaller slaughterhouses to close. The extension of veterinary supervision to domestic slaughterhouses, as a consequence of the Single Market, created additional problems through a shortage of OVSs, as discussed earlier in this chapter.

5.91 The European Council issued a further Directive 91/498 to ‘take account of local situations and prevent abrupt closures of establishments’, which provided arrangements for limited and temporary derogations to be granted to slaughterhouses in operation before 1 January 1992.\textsuperscript{2098} Slaughterhouses applying for the derogation would have to submit a work plan and programme, indicating their proposals to move towards total compliance with the EC standards by 1 January 1996. Earlier in this chapter we looked at the progress made during 1993 and 1994 by slaughterhouses, operating under derogation, towards achieving the requirements of the European Single Market.

5.92 On 2 December 1992, Mr Gummer answered a Written Answer to a Parliamentary Question on slaughterhouses from Mr David Nicholson MP, on measures MAFF proposed to take to enable small slaughterhouses to survive in the European Single Market. He said:

> The single market hygiene legislation is not intended to destroy traditional small businesses . . . My Department has taken a number of steps to ensure that this directive can be implemented sensibly and without imposing unnecessary burdens. During the EC negotiations, we secured agreement that very small abattoirs did not need to comply with all the detailed structural requirements and that all meat premises would be eligible for temporary derogations of up to three years from 1 January 1993 to enable them to upgrade their premises to meet the new standards.\textsuperscript{2099}

5.93 On 23 February 1993, Mr Soames replied to a Parliamentary Question from Mr David Porter MP, on what estimate MAFF had made on the number of abattoirs that would not be able to afford to meet the current hygiene arrangements, and would cease business. Mr Soames replied:

\textsuperscript{2095} M22 tab 1 p. 4 and see also the government press release at YB92/3.5/9.1
\textsuperscript{2096} L 17 tab 8. The Fresh Meat (Hygiene and Inspection) Regulations 1992 revoked the Meat Inspection Regulations 1987 and the Fresh Meat Export (Hygiene and Inspection) Regulations 1987. For further information see vol. 14: \textit{Responsibilities for Human and Animal Health}
\textsuperscript{2097} DM01 tab 8 p. 20. The change was effected by regulations 2, 4 and 25 of the new Regulations. Local authorities retained the duty to license slaughterhouses under the Slaughterhouse Act 1974 and, as such, there was a transitional period in which there was dual licensing of slaughterhouses
\textsuperscript{2099} YB92/12.02/1.1
So far some 544 slaughterhouses in the United Kingdom have applied for temporary derogations for varying times. We believe the applicants are committed to upgrading their structure and would expect them to have made adequate financial provision to finance the work. We have not been advised by any of them that they intended ceasing business in the next two years.

5.94 Mr Keith Baker, ACVO, discussed the European Single Market and slaughterhouse derogation in his statement to us:

As part of the requirements for the completion of the Single Market, the Fresh Meat (Hygiene and Inspection) Regulations 1992 were enacted (implementing the requirements of Directive 91/497/EC). These regulations required all red meat slaughterhouses, cutting plants and coldstores to be licensed by MAFF. As permitted by the regulations, day-to-day responsibility for operations in the premises remained with the local authorities. Since many of the premises did not, at that time, meet with the standards of the new regulations, the operators were given a 3 year derogation period, subject to them agreeing to, and carrying out, an improvement programme. This threw a considerable burden on all MAFF staff involved in meat hygiene, and it only indirectly improved the handling and disposal of specified offals by the gradual increase in standards. The burden of work continued well beyond the 3 year period, since operators who failed to meet their commitments were delicensed, leading to appeals (to an independent Meat Hygiene tribunal) which took up considerable extra time and resources.

He continued:

The new regulations also required the presence of Official Veterinary Surgeons in all slaughterhouses, cutting plants and coldstores, for which the slaughterhouse industry had to pay. The industry, in many cases, considered this to be an unjustified imposition, and it made things extremely difficult by withdrawing any co-operation and challenging many of the requirements they felt were excessive. With many of the operators refusing to pay the new charges, the local authorities, who were still required to provide the inspection, found themselves with mounting debts. In addition, since many of the plants were small and located in rural communities, the new requirements were, locally, thought likely to cause their closure, with concern about loss of services. This meant additional work for all MAFF staff involved, and particularly careful handling of the dispute was necessary.

Government proposal to introduce the MHS

The review of fresh meat hygiene enforcement

5.95 Proposals to establish the MHS were first formulated when the Government began to review the effectiveness of the enforcement of meat hygiene controls, in light of the European Single Market and the decision that Agriculture Departments

\[\text{YB93/2.23/3.1} \]
\[\text{S83 Baker para. 15} \]
be made responsible in future for the licensing of slaughterhouses and meat production premises. MAFF and DH commissioned a detailed report on alternative methods of ‘providing day-to-day meat inspection and hygiene’, which was published in June 1991.\textsuperscript{2102}

5.96 After considering the report, Mr Gummer wrote to Mr William Waldegrave, the Secretary of State for Health,\textsuperscript{2103} on 18 July to propose the creation of a ‘new organisation to provide hygiene control and meat inspection in fresh meat premises’. Mr Gummer accepted there was scope to improve the current enforcement function of local authorities; however, he believed that there would be an inevitable EC challenge to these arrangements as they lacked the ‘necessary element of central control’. He felt that a dedicated enforcement service would ‘facilitate provision of a high quality and cost effective service’ to satisfy the European Community Commission and consumers as to the hygiene standards of British meat production. Mr Gummer concluded that he would write to Cabinet colleagues to seek their agreement to the creation of the service.\textsuperscript{2104}

5.97 Mr Waldegrave replied on 18 September 1991 that he was ‘content’ with the proposal.\textsuperscript{2105}

5.98 On 4 November 1991, Mr Gummer sent the Prime Minister, Mr John Major, a paper proposing the creation of a national meat hygiene service and seeking his agreement.\textsuperscript{2106} A response was received on 14 November advising that the Prime Minister could not reach a decision on the proposal without the view of the Treasury.\textsuperscript{2107}

5.99 David Mellor, Chief Secretary of the Treasury (1990–92) wrote to the Prime Minister on 3 December 1991, expressing his concerns over Mr Gummer’s paper. He was worried about public expenditure and that the creation of the new service would be contrary to ‘our aim of reducing the size of the [civil] service’. He also noted that the changes might lead to demands that other aspects of local food safety enforcement should then be centralised. Several other concerns were noted, and Mr Mellor concluded that the matter should be ‘properly thought through’.\textsuperscript{2108}

5.100 At a meeting between MAFF, DH and Treasury officials on 18 December 1991, the Meat Hygiene Division was asked to amend the paper so as to spell out in greater detail the ‘pros and cons’ of the options which had been rejected and to take the Treasury concerns into account.\textsuperscript{2109}

5.101 The paper was redrafted and forwarded to Mr Gummer by Mrs Jane Brown on 10 January 1992. Mrs Brown advised the Minister that the redraft had been officially cleared with Welsh Office Agriculture Department (WOAD), Scottish Office Agriculture, Environment and Fisheries Department (SOAEFD) and DH. She also noted that ‘the meat industry and the veterinary profession are very anxious to have an early decision’. The Minister approved the redrafted submission.\textsuperscript{2110}
5.102 Mrs Brown told us:

The Prime Minister’s Office asked Machinery of Government Division in the Cabinet Office to take forward discussions with a view to resolving the Treasury concerns. Meetings took place during December and January and agreement was reached between officials on amendments to the paper circulated by Mr Gummer in November which addressed the Treasury points. 2111

5.103 A final meeting between MAFF, DH and Treasury took place on 25 February. 2112

5.104 The submission was further redrafted. It was then forwarded to the Prime Minister on 27 February 1992 by Sir Robin Butler, Cabinet Secretary. It noted difficulties within slaughterhouses resulting from the current system of enforcement, and recommended the introduction of the MHS. Part of the ‘summary of Departmental views and issues for decision’ in the submission said:

Existing arrangements for the enforcement of hygiene rules in meat plants are ill-suited to the needs of the Single Market. Some changes are inevitable to meet the requirement for veterinary supervision of all plants and the need for central accountability. In addition to these new factors, there are problems with the present system which need to be resolved, in particular poor standards in domestic plants, and lack of consistency in enforcement. 2113

5.105 The Prime Minister responded on 3 March 1992 that he agreed that the responsibility for meat hygiene enforcement should be transferred from local authorities to a central service. 2114

5.106 The decision to introduce the MHS was announced by the Mr Gummer and reported in a press release on 9 March 1992. 2115

Response to the Single Market and the proposal to establish the MHS

5.107 Ten months earlier in a news release on 24 May 1991 the IEHO had expressed concern about the proposed new service. The news release had been issued in response to the MAFF and DH report published in June 1991 entitled ‘Review of Fresh Meat Hygiene Enforcement in Great Britain’ (see paragraphs 5.95–5.96 above). Miss Linda Allan, Under Secretary of the IEHO, was quoted as saying, among other things:

A system which removed the responsibility for meat inspection from local authorities would see the end of an integrated food inspection service. The loss of co-ordination and of the holistic approach to food control could be detrimental to public health, as well as being a doubling up of resources. 2116
5.108 On 9 March 1992, the same day as the Prime Minister’s announcement to create the MHS, the British Veterinary Association (BVA) issued a press release welcoming the Government’s decision to introduce the MHS and stated:

\[\ldots\] We particularly welcome the fact that this will strengthen the position of the Official Veterinary Surgeon both in supervising the welfare of animals at slaughter and in protecting the consumer.\[2117]\n
5.109 The Association of District Councils published a press release on 9 March 1992 expressing their ‘dismay’ that local authorities would lose their role in meat inspection:

District councils and their environmental health officers and meat inspectors have been responsible for a comprehensive food safety and hygiene enforcement service. This continuity of enforcement in the food chain from slaughter to consumption is a very important factor and a strength of the existing system. It is a pity the Minister has decided to weaken this regime by transferring the duty of meat inspection to MAFF.\[2118]\n
5.110 The announcement by the Prime Minister to establish the MHS had been made in the run-up to the general election held on 9 April 1992. Mrs Brown, in her written statement to the Inquiry, described briefly the reaction by the Labour Party to the decision:

During the Election period reports in the trade press suggested that the Labour Party might overturn the decision to set up the agency, and local authority and environmental health interests signalled that they would lobby against it if Labour were returned.\[2119]\n
5.111 After the election, when the Conservative Party was returned to Government, MAFF and DH continued to face opposition over the European Single Market and the proposed MHS. Mrs Brown again describes this in her written statement to the Inquiry:

During late 1992 and 1993, MHD was heavily engaged in implementing the Single Market Fresh Meat Directive and in negotiating and preparing to implement the other Single Market Directives in the meat sector. The Fresh Meat Directive was extremely unpopular with some sectors of the meat industry, the major retailers (whose cold stores came within its scope) and politicians and journalists who perceived it as over-regulatory. MAFF was accused of over-implementing the EC requirements. In October 1992 the Parliamentary Secretary (Mr Soames) took an extremely hostile Adjournment Debate in the Commons when Conservative backbenchers attacked the Directive and queried the need for additional hygiene precautions. On 28 October Mr Gummer gave evidence to the Agriculture Select Committee, in which he gave graphic examples of hygiene failings in slaughterhouses and referred to BSE as one of the reasons why enforcement in slaughterhouses needed to be fully effective. This was a deliberate attempt to alter the climate of the debate in Parliament and in the media.\[2120]\n
2117 YB92/3.09/2.1
2118 YB92/3.09/3.1
2119 S79 Brown para. 21
2120 S79 Brown para. 24
5.112 Mr Gummer’s evidence to the Agriculture Select Committee is recorded in paragraph 5.27.

**Disagreement within the Government in 1993 on the creation of the MHS**

5.113 In May 1993, Mrs Gillian Shephard succeeded Mr Gummer as the Minister of Agriculture. In July 1993, Mr Capstick, requesting Mrs Shephard’s endorsement of the MHS, sent her a submission on the MHS (also referred to as the NMHS). 2121

5.114 A videoconference was then held with the Minister, together with Mr Meldrum, Mr Baker, Mrs Brown, Mr Lawrence and others. The meeting was described in a minute of 15 July 1993 from Mr Barnes to Mrs Brown, which noted:

The Minister said that she wanted more information on three areas before approving the National Meat Hygiene Service policy. First, how would it be possible to present it to the public as a deregulatory measure? Second, what would be the cost of the service, to industry and the public purse, and how would its manpower be organised? Third, how could MAFF ensure that the removal of work from local authorities resulted in a reduction in their staff numbers to balance the new staff in the NMHS?

... The Minister said that before giving her policy approval she would like advice from you (Mrs Brown) and Mr Dugdale as to how the policy could successfully be presented to the public as deregulatory. 2122

5.115 Mrs Brown provided further detailed advice to Mrs Shephard on 21 July 1993 on the presentation, costs and staffing of the NMHS. 2123 This was followed by a meeting on 28 July 1993 between the Minister, Mr Packer, Mr Haddon, Mr Baker, Mr Lawrence and others, after which the Minister said ‘in the light of the further information she was now persuaded of the merits of the proposed NMHS’. 2124

5.116 Mrs Shephard said in her statement to us:

I was particularly concerned about how it would be possible to present the NMHS to the public as a deregulatory measure, what it would cost the industry and the public purse, how its manpower would be organised, and how MAFF could ensure that the removal of work from local authorities resulted in a reduction in their staff numbers to balance the new staff in the NMHS. After discussing the matter with officials, and receiving some further information from Mrs Brown, the Head of the Meat Hygiene Division at MAFF, I was satisfied that the NMHS would bring consistency of enforcement and the management structure would be more lean and efficient, allowing a reduction in the cost to the industry and more effective use of the flexibility which the legislation allowed. I also thought the establishment of the NMHS would introduce better accountability of enforcement officers who would be more directly accountable to ministers.
and hence to Parliament rather than the existing situation where local authorities were responsible for enforcement of the regulations.\textsuperscript{2125}

5.117 Meanwhile, the new Secretary of State for Wales, Mr John Redwood (1993–95), had also received a submission on the NMHS, seeking his approval of the service. In a minute to Mr Lawrence on 22 July 1993, Mr Alun Huws of WOAD said of Mr Redwood:

. . . his first reaction to our parallel submission to yours was that he would prefer powers to rest with the local authorities, with constraints set centrally. He is also unhappy with the representation that the NMHS measures are deregulation ones (by virtue of their being in the deregulation bill.)

He has, therefore, not approved any of the measures proposed for the deregulation bill relating to the NMHS.\textsuperscript{2126}

5.118 Mrs Shephard wrote to Mr Redwood on 17 August 1993:

You will know that I have been giving detailed consideration to the proposal to establish a National Meat Hygiene Service (NMHS) to take over hygiene and welfare enforcement work in fresh meat plants, a task currently undertaken by 300 local authorities. Like you, when I was first made aware of these proposals, I had initial misgivings. However, having asked officials to provide me with more information and having discussed it again with them, I am now firmly convinced that this is the right course and I believe we should go ahead . . . I do not wish to labour the principal benefits I see in the setting up of the Service . . . But in summary I believe that it will lead to improved cost-effectiveness, accountability and consistency in the enforcement of hygiene and welfare standards.\textsuperscript{2127}

5.119 Mr Redwood replied on 29 August and said:

. . . I have had doubts about the wisdom of establishing another body to carry out the work of meat hygiene and enforcement. In general, I would prefer not to add to centralised bodies where effective arrangements can be made using existing local structures. I agree that improvements to cost-effectiveness, accountability and consistency in carrying out functions in this area are needed; but I am not persuaded that in this particular instance the creation of a centralised service is the best way of achieving these ends.\textsuperscript{2128}

5.120 On 6 September, Mrs Shephard replied, reiterating her reasons for supporting the introduction of the NMHS:

I believe that the NMHS offers the prospect of real benefits for our meat industry; there is strong support from most of the key players, and the backlash if we were to reverse the decision would, in my judgement, be extremely damaging.\textsuperscript{2129}
5.121 Mrs Shephard and Mr Redwood met on 29 September 1993; however, Mr Redwood still expressed doubts about the creation of the NMHS. \(^{2130}\) In a minute dated 6 October to Mr Redwood, Mrs Shephard noted he was wondering how ‘we can ensure that it [NMHS] remains a lean, efficient and cost-effective organisation’. Mrs Shephard replied:

There is certainly considerable inefficiency in the system at present, because of the intensive State Veterinary Service input required to maintain standards anywhere near an acceptable level and to iron out some of the worst inconsistencies of approach. Once the NMHS is in place, there will be real scope to streamline things. In practice, the SVS will discharge the licensing role simultaneously with the task of auditing the NMHS’s performance – a job which would need to be done in any case. The SVS PES forecasts envisage a 75% reduction of input in meat plants (from 60 to 15 man years) as a result of establishing the NMHS. This is in addition to the savings in inspection staff in the plants which will be possible under the NMHS, through more cost-effective deployment across local authority boundaries. \(^{2131}\)

5.122 Mrs Shephard concluded the minute by stressing the need to make progress on the matter.

5.123 Mr Redwood was still not content with the proposal and on 12 October said:

The organisation seems over-complex in relation to the work and in my view it unnecessarily separates the licensing and enforcement functions. Presentationally, the establishment of a fresh layer of bureaucracy and the expenditure on the start-up costs (albeit in the short term) do not fit in with our efforts on deregulation and reducing public expenditure.

In view of this, I have to confirm that I am not content with the proposal to establish a National Meat Hygiene Service. I would prefer to keep the existing local structure in place (with detailed advice from Government to improve standards where necessary) for the present; and for a thorough reappraisal of the whole question of meat hygiene enforcement to be carried out. Our aim should be to establish a lean and efficient organisation without the panoply of additional checks and controls entailed by an Agency, and to ensure that all work in this area is incorporated in the organisation’s functions. \(^{2132}\)

5.124 On 14 October, Mrs Shephard wrote to Mr Michael Portillo, the Chief Secretary of the Treasury (1992–94), about the setting up of the MHS. \(^{2133}\)

5.125 Mr Portillo replied on 27 October that ‘I am concerned that creating a new centralised regulatory body may not necessarily be as attractive as it seemed to us 18 months ago’. He suggested that Mrs Shephard look at whether ‘cost and service improvements could not be delivered adequately through management change in...
local authorities’ and was ‘a little sceptical too that a national agency to enforce national standards is an ideal solution’.\textsuperscript{2134}

5.126 Mrs Shepherd responded on 29 October that Mr Portillo’s questioning of the establishment of the MHS surprised her:

\ldots All the points you raise were examined exhaustively when the original decision to proceed with a National Service was made and approved by all departments concerned including your own. I continue to be under pressure about the inconsistencies and unsatisfactory nature of the present inspection system. These representations would greatly increase if we changed policy now.\textsuperscript{2135}

5.127 Mr Redwood, who had received a copy of the initial letter to Mr Portillo from Mrs Shepherd and further correspondence from her,\textsuperscript{2136} wrote to Mrs Shepherd on 26 October 1993:

I am sorry to be holding out against implementation of what I know to be a previously announced decision. I really do feel however that this proposal – which will necessarily entail significant setting up costs – should at the very least be deferred. Indeed my own strong preference would be to work to improve the present arrangements.\textsuperscript{2137}

5.128 Mrs Shepherd replied to Mr Redwood on 4 November:

You suggest that we should defer setting up the NMHS. I do not think this is a realistic option. The decision was announced over 18 months ago, has been accepted by all the main interest groups, including the local authorities, as established Government policy, and is strongly supported by the great majority of the meat industry, who foot the bill for the inspection service.

We are already being criticised for not making more rapid progress. I cannot see how I could defend a reversal of our agreed policy. The PES costs are small compared to the potential longer term savings for both Government and industry. This year’s experience of introducing the new Regulations via the local authorities gives me no confidence at all that a fresh joint effort between them and central Government would be any more successful than the previous failed attempts to improve enforcement in this sector.\textsuperscript{2138}

5.129 On 9 November 1993, Mr Ian Lang (now Lord Lang), Secretary of State for Scotland (1990–95), who had received copies of the previous correspondence, wrote to Mrs Shepherd, with copies to Mr Portillo and Mr Redwood:

I was party to the decision in March last year to create the national meat hygiene service, and we looked very thoroughly at the merits of all options at that time. I have seen no new arguments to justify reopening a question which has been decided. There was a long history of problems with the
present system based on local authorities, and the creation of a national
service should close that chapter. 2139

5.130 Mr Redwood and Mr Portillo, on the 14 and 15 November respectively, both
indicated their acceptance of the introduction of the MHS. 2140

5.131 Mrs Brown said in her statement to us that ‘it was of course not possible to
take any definitive steps on recruitment or other aspects of establishment of the
MHS while these exchanges were taking place between Ministers’. 2141

5.132 Mr Packer was asked in oral evidence about whether there was a conflict
between introducing the MHS and the deregulation initiative:

. . . there was a specific deregulation scrutiny carried out, I think, by the
Deregulation Unit which concluded that the Meat Hygiene Service should
go ahead. So I think the argument unequivocally has to be that as regards the
then Government’s central initiative there was not a conflict. However, the
deregulation initiative was dragged into the argument by many people who
did not want to go ahead with the service for various reasons. 2142

1994 and the run-up to the commencement of MHS operations on
1 April 1995

5.133 Work continued on the establishment of the MHS during 1994. 2143 The Chief
Executive Designate of the MHS, Mr Johnston McNeill, was appointed, and an
MHS project team worked on finalising the responsibilities of the Service. 2144

5.134 Liaison meetings were organised between the MHS team and representative
bodies of local authorities, including LACOTS 2145 and the AMA (Association of
Metropolitan Authorities). 2146 The LACOTS Food Safety Panel was also
consulted. 2147 Mrs Brown commented in a submission on 30 September 1994
(see paragraphs 5.140–5.141) that:

While the Association of District Councils, the Association of Metropolitan
Authorities and the IEHO are formally opposed to the MHS, all three
organisations have stated publicly that they will co-operate with MAFF and
the Chief Executive over the transfer of responsibility. In private, many
individual local authorities are relieved at the prospect of losing one of their
more troublesome functions. 2148

5.135 Mr McNeill discussed the relationship between local authorities and the
MHS team in oral evidence:

In the main we had very good working relationships with the local
authorities and, through organisations such as LACOTS and the Department


2139 YB93/11.09/4.1
2140 YB93/11.14/1.1; YB93/11.15/3.1
2141 S79 Brown para. 28
2142 T83 pp. 98–99
2143 S79 Brown para. 30
2144 YB94/8.06/3.1
2145 YB94/8.26/1.1
2146 YB94/8.26/1.1
2147 YB94/8.19/5.1
2148 YB94/9.30/4.4

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of Health and others, maintained very good communication and working relationships. We had some difficulty with some local authorities. Part of the transfer of staff process required them to complete a questionnaire. We engaged the services of WS Atkins –

MR MATOVU: Can I just pause there? You are referring to ‘we’. Who are ‘we’?

MR McNEILL: Initially the process team, who of course had visited a number of slaughterhouses and spoken to a number of local authorities, and then myself and the project team. Then, once the structure was filled, the senior management came on board and they of course would interface with local authorities. Each regional director would be in communication with local authorities on various issues. But as I was mentioning, we sent all of the local authorities who had responsibility for meat inspection work the questionnaire that was prepared by WS Atkins to try to identify the number of staff they employed who, of course, would have a right of transfer to the new Meat Hygiene Service. In some cases it was quite difficult to get that information and we had problems with some local authorities who resented, I think, the loss of this role.

. . .

. . . I think we finally ended up transferring staff from I think it was 176 local authorities, and of course they transferred with their individual terms and conditions, which meant we ended up with really 176 sets of terms and conditions, which we spent the next year harmonising, which was a fairly major exercise, as you can imagine.\textsuperscript{2149}

\subsection*{5.136} The Deregulation and Contracting Out Act was passed in October 1994. It contained provisions to allow Ministers to exercise powers similar to those of local authorities, providing the legislative framework for the creation of the MHS:

Ministers acting under the Food Safety Act 1990 will be put in the same position as food authorities, allowing them to authorise any person to be an authorised officer for enforcement purposes. Regulations made under the Act will be enforceable by Agriculture Ministers acting alone in their own territories. Welfare, including the licensing of slaughtermen, will also be transferred from local authorities to Agriculture Ministers. In effect, along with changes to secondary legislation, the Meat Hygiene Service will act as an enforcing authority under Ministerial direction.\textsuperscript{2150}

\subsection*{5.137} Mrs Brown described in her statement to us that in 1994:

The political climate remained extremely difficult with the Quality Meat and Livestock Alliance orchestrating a campaign against the meat hygiene legislation including a “payment strike” which led to a challenge of the UK interpretation of the veterinary supervision requirements of the Fresh Meat Directive in the European Court.\textsuperscript{2151}
The Quality Meat and Livestock Alliance (QMLA) was made up of number of smaller abattoir operators who felt that veterinary supervision was not required within their premises.\footnote{2152 T37 pp. 37–8}

At the end of July 1994, Mr William Waldegrave and Mrs Angela Browning succeeded Mrs Shephard and Mr Soames as Minister of Agriculture and MAFF Parliamentary Secretary respectively. On 22 September, Mr Waldegrave asked for detailed advice on the introduction of the MHS, as he foresaw difficulties in its approaching introduction. He was concerned about criticisms that had been made about the Service and asked (among other things) ‘why is the status quo untenable, or so much worse than the MHS?’\footnote{2153 YB94/9.22/1.1}

A submission was prepared by Mrs Brown for the Minister on 30 September 1994.\footnote{2154 YB94/9.30/4.1–4.17} She said that the status quo was untenable because:

> ... as expected, the extension under the Single Market rules of veterinary supervision to all abattoirs has been extremely difficult to implement under the current local authority arrangements. Many Environmental Health Departments resent the requirements to employ a vet, and the OVS tends to be excluded from the EHO/meat inspector management line. The Commission inspectors were extremely critical of supervision and enforcement during their visit to derogated GB plants earlier this year ... we believe that the commitment to establishing the MHS will enable us to counter their criticisms on this occasion.

If the status quo were to be retained, we believe that other Member States could begin to create difficulties for our meat exports on the grounds that Community rules are not being adequately enforced. While BSE remains a problem it is particularly important that other Member States have confidence in our enforcement arrangements. At present we know that there are some problems over the disposal of specified bovine offal; a single agency responsible for all the fresh meat plants will enable MAFF to control the position much more effectively.

As indicated above, local authorities are gearing up to withdraw from meat inspection from next April. While some have done a good job in the past, many others have not. It would be unrealistic to expect the majority of LAs to see meat hygiene as a priority function in future, given the difficulties of implementing the Single Market rules, the continuing legal challenge from the Quality Meat and Livestock Alliance, and the Government’s decision in 1992 that a centralised agency would offer a more cost-effective and consistent service to consumers and to the industry.\footnote{2155 YB94/9.30/4.3–4.4}
5.141 Mrs Brown also noted that most consumer and welfare groups were supportive of the MHS and that ‘opposition is coming . . . from the Quality Meat and Livestock Alliance’. She said that the QMLA membership was mainly drawn from smaller sized abattoirs ‘the sector of the industry which had been declining most rapidly in recent years as a result of market forces and which, by and large, has the greatest problems in relation to hygiene standards’.\textsuperscript{2156}

5.142 Mr Packer also wrote to the Minister on 3 October 1994 in support of establishing the MHS.\textsuperscript{2157}

5.143 Discussions then took place on the presentational problems of the MHS, and official plans for managing the launch process.\textsuperscript{2158}

5.144 The MHS Framework Document was finalised in March 1995 following consultation with Cabinet Office and Treasury.\textsuperscript{2159} Detailed performance targets were set and published on 31 March 1995.\textsuperscript{2160} The MHS framework is discussed in Chapter 6 of this volume.

5.145 Mrs Brown concluded in relation to the MHS:

. . . the establishment of the MHS took place in difficult circumstances. The decision to set up a centralised service under the control of Agriculture Ministers was contrary to the general thrust of Government policy, and the unpopularity of the EC meat hygiene legislation with some sectors of the industry and with certain MPs, journalists and lobbyists inevitably made the task of ‘selling’ the concept of the MHS extremely difficult. Nevertheless it was possible to push the project through to completion without making any compromises which undermined the fundamental objective of putting in place arrangements which would allow enforcement to be delivered consistently and to ensure that effort was directed to the areas which were perceived as critical for public health, including of course the SBO controls when the SVS monitoring in mid 1995 revealed failures at slaughterhouse level.\textsuperscript{2161}

The MHS and SBO Regulations

5.146 It does not appear that in 1991–94 there was any concern that the inconsistent enforcement standards of meat hygiene regulations in general, or the poor hygiene standards often reported in slaughterhouses (important factors behind the creation of the MHS), might have implications for the enforcement of the SBO Regulations. Mr Gummer, when addressing the Agriculture Committee in October 1991, had referred to BSE as one of the reasons why enforcement in slaughterhouses needed to be fully effective. But he did not suggest that there were doubts as to whether the SBO controls were being satisfactorily enforced.\textsuperscript{2162}

5.147 In oral evidence Mr Martin Haddon (MAFF) said that he was aware of the report of Johnston and Spurr (discussed above) detailing problems within derogated

\textsuperscript{2156} YB94/9.30/4.5
\textsuperscript{2157} YB94/10.03/2.2
\textsuperscript{2158} S79 Brown para. 32
\textsuperscript{2159} S79 Brown para. 33. The document can be found at M22 tab 2
\textsuperscript{2160} YB95/3.31/1–1.2
\textsuperscript{2161} S79 Brown para. 36
\textsuperscript{2162} See the description earlier in this chapter of the response to the proposal to establish the MHS
slaughterhouses. However, at the time he did not see any link with the enforcement of the SBO Regulations:

I was aware from early on in my tenure of the post that there were concerns about the variability and in some cases poor standards of hygiene in the dressing of meat in slaughterhouses, and of poor compliance with structural standards and so on which were increasingly being imposed or going to be imposed and subsequently were imposed under Community legislation. And there were also arguments about the degree of supervision and the desirability or otherwise of having veterinary supervision in all slaughterhouses.

I did not, I think, make a link in my mind between such deficiencies as I heard about and the application of the SBO controls; and I suppose, with hindsight, I can say that I think I may have thought that the SBO controls were rather simple to carry out and that the sort of deficiencies in terms of, you know, the spraying of water on carcasses or the drains or fecal contamination and so on seemed to be rather more subtle, and things requiring a different order of supervision and management than the SBO controls.\textsuperscript{2163}

5.148 In his oral evidence, Mr Packer was referred to the reasons behind the establishment of the MHS and the implications of this on enforcement of the SBO Regulations:

MR WALKER: . . . you have helpfully set out some of the factors which were referred to in the submission in relation to the Meat Hygiene Service. One of those factors was: ‘inconsistent and sometimes poor standards of enforcement’. You were aware of that being a factor?

MR PACKER: Yes, I was.

MR WALKER: Did that give you cause for concern about enforcement of the SBO regulations?

MR PACKER: Not directly, but one needs to go according to the evidence; and we had no evidence that the SBO regulations were not being followed. And indeed in my early period in 1993 with Mr Simmons’s report, [I] had reason to believe they were being followed. Later, of course, evidence became available that they were not.\textsuperscript{2164}

Discussion

5.149 The establishment of the MHS was not a measure taken in response to the emergence of BSE. Accordingly it has not fallen within our terms of reference to consider why so long a time elapsed between the decision to introduce the Service and the implementation of that decision. In the event, the establishment of the MHS had a beneficial impact on the implementation of both the human and the animal SBO ban. It is unfortunate that this was so long delayed.
Implementation of precautionary measures in relation to BSE

Introduction

5.150 In this section we shall look at the implementation of precautionary measures to protect human health against the possible risk of transmission of BSE between 1991 and March 1995. First, we examine the monitoring by MAFF of the SBO ban in slaughterhouses. Second, we examine the concerns raised about MRM during this period, noting that the Government did not introduce any precautionary measures on MRM until December 1995 (discussed in Chapter 6). Third, we look at the amendments made to the SBO Regulations during this period.

Monitoring compliance with the SBO Regulations at slaughterhouses from 1 January 1991 to 31 March 1995

5.151 Between January 1991 and March 1995, MAFF officials took a number of initiatives designed to ensure the effective monitoring of the SBO Regulations. These required the VFS to carry out both routine and additional visits to slaughterhouses. While Veterinary Officers (VOs) were expected in the course of such visits to maintain enforcement of all obligations imposed by the SBO Regulations, the emphasis was not on the removal of SBO from the carcass, it was on the disposal of the SBO once it had been removed from the carcass, ie, procedures in the gut room.

5.152 This reflected the fact that the motivation for their initiatives was a concern that SBOs should remain separated and distinguishable from other material destined to be rendered for animal feed. Officials were not motivated by doubts about the protection of human health. However, over the period covered by this chapter, they became increasingly anxious to ensure that the tissues covered by the human SBO ban were dealt with in a way which would not prejudice the animal feed SBO ban.

5.153 Mr Peter Hewson, between 1992 and 1995 a Superintending Meat Hygiene Adviser, explained in oral evidence:

> The accent was really on was the material being collected, being disposed of hygienically and safely; not was it being removed from the carcase hygienically and safely?2165

5.154 For this reason we have felt it appropriate to place our detailed review of the monitoring of the SBO Regulations in vol. 5: Animal Health, 1989–96. In this volume we shall concentrate on those aspects of the story which have specific reference to human health.

5.155 On 18 January 1991, the SVS circulated pro-forma report forms on compliance with the SBO Regulations for Divisional Veterinary Officers (DVOs) to complete. The pro-forma report sought little information in relation to the human food chain or SBO removal techniques, other than to ask whether, in those
slaughterhouses where bovine brains were removed on site, there was a consequent risk of contamination of meat for human consumption.\textsuperscript{2166}

5.156 The completion of the pro-forma reports by DVOs was continuous throughout 1991–95. However, SVS reports are missing for the following periods after the initial report in March 1991: April 1991, July 1991–February 1993, November 1993–June 1994, and November–December 1994.\textsuperscript{2167}

5.157 So far as the removal of spinal cord from the carcass is concerned, we are aware of only one report prior to 31 March 1995 that identified a failure to ensure the full removal of spinal cord from the carcass.\textsuperscript{2168}

Instructions issued by SVS Headquarters to SVS Field Staff on monitoring the SBO ban during 1991 to March 1995

5.158 During 1991 to March 1995, SVS Headquarters issued a series of instructions to SVS Field Staff to report on compliance with the SBO Regulations in slaughterhouses. As a result the frequency of SVS visits to slaughterhouses increased during this period, from occasional announced visits in 1991 to a requirement, introduced on 29 June 1994, for unannounced visits every two months.\textsuperscript{2169}

Monitoring compliance with the SBO ban during 1991 and 1992

5.159 At the start of this period, bovine brain removal was under scrutiny by the SVS during their visits. Monitoring of brain removal was raised on 18 January 1991, when the SVS first circulated the pro-forma reports.

5.160 Mr Stephen Hutchins, SVO Meat Hygiene Veterinary Section, produced a summary of these reports from slaughterhouse visits in January and February, and forwarded it to Mr Iain Crawford, Director of the VFS, MAFF, on 5 April 1991. He noted that the method to remove brains from skulls varied, although it involved either removing the back or top of the skull, or splitting of the skull.\textsuperscript{2170}

There was little or no evidence of meat intended for human consumption being exposed to risk of contamination by brain material. Head meat was generally removed prior to brain removal. Heads were opened in parts of the premises where no meat intended for human consumption was present. In the few cases where this was not the case, the undesirability of these practices was discussed with operators.

5.161 Mr Hutchins pointed out that in the few plants where contraventions had been reported the relevant local authority had been contacted to ensure compliance. He concluded that the overall picture appeared ‘quite encouraging’ with ‘generally a high degree of compliance with the legislation’.\textsuperscript{2171}

\textsuperscript{2166} YB91/1.18/1.1–1.4
\textsuperscript{2167} The North Report M60 p. 139
\textsuperscript{2168} YB90/11.20/1.4
\textsuperscript{2169} M52 tab 5 pp. 1–2
\textsuperscript{2170} Methods of bovine brain removal are discussed in detail in vol. 13: Industry Processes and Controls
\textsuperscript{2171} YB91/4.05/5.1
5.162 On 19 June 1991, Mr Hutchins minuted Mr Crawford summarising the results of the surveillance reports received for May/June 1991. He expressed concern about the contamination of meat for human consumption at six abattoirs where the brain was removed before head meat was harvested. The ‘undesirability’ of such practices had been discussed with local authorities. Mr Hutchins concluded that the overall picture remained quite encouraging and that the concerns over contamination of head meat should be resolved when amendments to the SBO Regulations in relation to bovine heads came into effect. The amendments were to be based on guidance previously issued by MAFF in June 1990. (See Chapter 4 and paragraph 5.205.)

5.163 The possible use of SBO-derived tallow in the human food chain had been discussed by SEAC on 7 March 1991 (see vol. 11: Scientists after Southwood. It is also discussed in vol. 7: Medicines and Cosmetics). The issue was raised in a report prepared by Mr Hutchins on 7 May 1991, concerning the results of surveillance reports from rendering plants. The report noted the following on the use of tallow:

A wide variety of uses was reported, although specific details were not generally available. Options included, edible tallow . . . There was little evidence to suggest that tallow produced from SBOs was handled separately from tallow produced from other offals.

5.164 Mr Crawford referred to Mr Hutchins’s minute on 8 May 1991, and noted in a minute to Mr Baker and copied to Mr Hutchins and Mr Lawrence:

As you know, tallow produced from the specified offals can be used for inclusion in animal feed (although our information is that it is not being put to that use) but not for human consumption.

5.165 Mr Hutchins then wrote to the DVOs who had submitted reports indicating that SBO-derived tallow was being mixed with other tallow, to request further details as to the use of tallow.

5.166 We have not seen the response received by Mr Hutchins. However, in his written statement to the Inquiry he said that only one DVO had claimed tallow was used in the human food chain and, when the DVO was further questioned, he reported the claim to have been ‘an error in the completion’ of his report. In a further minute to Mr Crawford on 3 June 1991, Mr Hutchins advised:

Further inquiries regarding these reports have now been completed. It is now stated that no SBO-derived tallow is used in the preparation of human foodstuffs (apparently an error in the original report).

5.167 However, the use of SBO-derived tallow was raised again on 30 July 1991, in a minute from Mr Crawford to Mr Lawrence discussing a conversation with Mr Ron Martin (CVO of Department of Agriculture for Northern Ireland (DANI)
from March 1990 to March 1996). Mr Martin had suggested that SBO-derived tallow from Northern Ireland sent to brokers in Great Britain could be upgraded and perhaps used for human and animal consumption. A minute from Mr Hutchins to Mr Crawford on 2 August 1991 recorded that some rendering plants sold their SBO-derived tallow to brokers, with no indication available as to its use.

**5.168** We have found no further evidence of concerns over the use of SBO-derived tallow in the human food chain in this period. Later reports on surveillance returns note that there was no indication of the use of SBO-derived tallow for human consumption; however, it was not often possible to establish the ‘ultimate destination’ of the tallow.

**5.169** We have found no further evidence in SVS surveillance reports during the rest of 1991 of any concern arising over the removal of SBO material or any further breaches of the SBO Regulations with implications for the human food chain.

**5.170** No reports are available on the SVS surveillance visits to slaughterhouses during 1992. However, hygiene issues affecting slaughterhouses continued to cause concern within MAFF, as discussed earlier in this chapter.

### Monitoring compliance with the SBO ban during 1993 and 1994

**5.171** Surveillance reports prepared in 1993 again said that the removal of SBO material appeared satisfactory. There were some reports of minor infringements, such as failing to stain or separate SBO after removal; however, it was noted that, once these were reported, local authorities took remedial action. MAFF remained aware of the problems of hygiene in slaughterhouses, as discussed earlier in this chapter.

**5.172** In February 1994, Mr Crawford noted that some staff had been giving advance warning of their visits. ‘Obviously this allows the operator to ensure that, at the time of the visit, everything is being done that should be done’. He gave instructions that *all* plants processing SBO be subject to unannounced visits by SVS staff during February and detailed reports compiled.

**5.173** On 25 March 1994, Mr Alick Simmons noted in a summary of reports from slaughterhouses that, in general, compliance with the SBO Regulations was satisfactory. The removal of SBO from carcasses was ‘correct’. He referred to Mr Crawford’s request that visits be ‘unannounced’. However, the summary noted that visits were ‘made by appointment’.

**5.174** During the remainder of 1994, reports from the SVS did not highlight any problems in relation to the possibility of SBO entering the human food chain through lack of compliance with the SBO Regulations. Mr Haddon commented in oral evidence on SBO removal in 1994:

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2179 YB91/7.30/3.1
2180 YB91/8.02/2.1
2181 See for example YB91/8.2/2.1, YB91/11.13/3.1 and YB92/12.16/1.1
2182 See YB93/7.07/3.1, YB93/10.05/1.1 and YB93/12.07/1.1
2183 YB94/2.01/2.1
2184 YB94/3.25/1.1–1.10
2185 See YB94/9.09/2.1–2.3, YB94/11.02/6.1–6.3
... In April 1994 discussion was well under way on problems in the application of the SBO controls and the need to take further steps to make them easier to try to enforce and monitor. That was all at that point seen in the context of the handling of SBOs after they had been removed from the carcass, and a lot of work went on about that, and there was subsequent legislation, but none of that consideration included any sort of implication or suggestion that SBOs were not being properly removed from the carcass.2186

Monitoring compliance with the SBO ban in January–February 1995

5.175 On 2 March 1995, Mr Simmons sent Mr Crawford and others in MAFF the summary report on SVS surveillance visits covering January and February 1995. Mr Simmons reported that:

Of the 348 slaughterhouses visited in the two month period, deficiencies in the disposal of SBO were reported in 10. These related to the absence of movement permits, inadequate staining and poor separation. In each case, the reports either indicate prompt resolution or that the problem has been taken up with the LA [local authority].2187

5.176 The summary report made no specific comments on the effectiveness of SBO removal from carcasses at slaughterhouses.

Overview on the monitoring of the SBO ban from January 1991 to 31 March 1995

5.177 Mrs Jane Brown discussed the monitoring of compliance with the SBO Regulations during 1991–94, in her written statement to the Inquiry:

Meat Hygiene Veterinary Service’s monitoring reports were the primary source of information . . . these reports did not suggest that there was any serious problem with the operation of the Bovine Offal (Prohibition) Regulations during 1991, 1992 and 1993. Where deficiencies were identified these were taken up with the local authority concerned (whose responsibility it was to enforce the Regulations) . . . The instructions to SVS field staff were kept under review and monitoring levels were increased throughout this period . . . In considering the need to intensify the level of monitoring we did not rely solely on the results of the visits carried out by SVS field staff which were reassuring. Rather we took account of all the information reaching us from external sources, some of which suggested that there was a need to probe more deeply.

I met regularly with local authority enforcement interests. These meetings provided an opportunity for both MAFF and the local authorities to raise any issues related to meat hygiene enforcement which were causing difficulty. Although the local authorities had complained about the practical difficulties in enforcing the Bovine Offal (Prohibition) Regulations when these were first made, by the time I took up post in September 1990 these concerns appeared to have disappeared. I do not recall any discussion of these
Regulations with local authority interests during the period between September 1990 and April 1994, either at the regular meat hygiene enforcement meetings or on other occasions (such as conferences etc) when I met local authority Environmental Health Officers.

Nor do I recall the meat industry, with whom I met frequently, raising any concerns about the practicality of these Regulations during this period. Many of my industry contacts were very conscious of the need for the slaughtering sector to be seen to be complying fully with the BSE controls, and I believe that they would have alerted me to any widespread deficiencies in the operation of the SBO ban.

I had therefore no reason to believe, prior to April 1994, that the Bovine Offal (Prohibition) Regulations were not proving adequate in practice. When concerns did begin to emerge in 1994, they related to problems of leakage of SBO material back into the animal feed chain rather than into the human food chain . . .

5.178 Mr Keith Baker discussed the European Commission inspections to slaughterhouses (discussed in paragraphs 5.20–5.23) and could not recall any comments about inadequate handling of SBO material being made:

Throughout the time I was involved in meat hygiene (i.e. June 1988 to March 1996), there were numerous visits made by Commission Inspectors to study the effectiveness of implementation of Community requirements. Such visits needed considerable preparation, intense involvement during the visits and considerable subsequent action to ensure that such deficiencies as were identified in the Inspectors’ reports were rectified. Again, a considerable strain on staff, given the generally uncooperative nature of the industry. Although the Inspectors’ detailed reports, produced after each visit, made much of construction and hygiene problems that they frequently identified, I cannot find, or recall, any comments on inadequacies in the way that specified materials were being dealt with.

5.179 Mr Du Val of LACOTS told us that prior to 1995, during discussions with the Government about meat hygiene, he recalled no concerns expressed by the Government about the enforcement of BSE controls.

5.180 Mr Les Bailey (Senior Executive Officer, LACOTS) provided a joint statement with Mr Du Val. They said:

LACOTS does not formally monitor the effectiveness of enforcement. However, matters of effectiveness may be raised through LACOTS advisory groups or through contact (letter, verbal or at meetings) with government, professional bodies, trade associations or consumer bodies. However . . . as far as staff recall and from a detailed study of LACOTS files [nor] was there any reference to concerns being raised with the organisation about the effectiveness of enforcement of controls relating to BSE.
Mr Etheridge of the Association of District Councils told us that BSE was seldom, if ever, discussed at the regular meetings between the Local Authority Associations and MAFF Meat Hygiene Division:

As I recall, the issues of concern at the time were the introduction of the various pieces of legislation to implement the EC Directives on fresh meat, poultry meat, rabbit meat and game at the time. An ongoing concern about red and poultry meat inspection fees and charges, and charges for residues, and again subsequently a great deal of discussion about the proposed creation of the Meat Hygiene Service. But I cannot recall, but presumably the minutes of those meetings are a matter of record and will confirm that BSE was hardly, if ever, discussed.

MR WALKER: Could I ask this: do you recall any occasion when the Ministry ever sought advice from the Association of District Councils as to how one might check whether SBO enforcement was working?

MR ETHERIDGE: I cannot recall. You have to bear in mind that we were in a climate largely of there being some uncertainty about the efficacy of local authority meat inspection. This is the foundation which led in time to the creation of the Meat Hygiene Service . . . But I cannot recall being approached directly in respect of any failures to enforce adequately the various bovine offal regulations. I mean, in fairness of course it may well be that MAFF did not judge that we had that responsibility, and certainly it is not something that would be automatically considered that would be a role for the associations.2192

Mr Ashley of the Local Government Association told us that ‘large numbers of local authorities did not express concerns over either the disease, the legislation or the Government’s overall management of the situation to the LAAs’ (Local Authorities Associations). However, he also said this in relation to MAFF’s consultation with local authorities on the BSE legislation:

The evolution of BSE legislation was generally characterised by ineffective consultation with the LA Associations. Material appears to have been simply copied to the LAAs for information. True consultation with the LAAs did not commence until the formation of the BSE Regulatory Forum in 1996.

Although Association records no longer exist for much of the period in question, the overwhelming view of staff who were employed at the time supported the view that where consultation was sought, the views expressed were apparently not considered. Certainly with regard to campaigning by member authorities, many individual authorities commented to MAFF that the legislation was flawed and largely unenforceable.2193

Discussion

We shall see in the next chapter of this volume that, after the establishment of the MHS in 1995, surveillance by the VFS of slaughterhouses resulted in a series of reports of cases where the spinal cord had not been fully removed from meat
which had been health stamped. The question arises of why, with one exception, no such instances were reported as a result of the monitoring of the SBO Regulations which we have just described.

5.184 Part of the explanation is that no instructions were given to members of the VFS to pay particular attention to the requirement to remove the entirety of the spinal cord. We have no doubt that they did so once concerns were raised about the removal of spinal cord in 1995.

5.185 We have found that there was a failure to emphasise the importance of the spinal cord both to local authorities and to members of the VFS at the time that the SBO Regulations were introduced (Chapter 3). No substantial consideration appears to have been given thereafter to the desirability of issuing such guidance. We think that this is neither surprising nor a matter for criticism having regard to the apparent equanimity of the Spongiform Encephalopathy Advisory Committee (SEAC) in the face of the information in the paper on slaughterhouse practices (see Chapter 4).

5.186 The next contrast between monitoring visits before and after April 1995 is the extent to which these were truly unannounced. Mr Fleetwood ensured that such visits were truly unexpected after April 1995. He expressed doubts as to whether before that time visits by the VFS would have been unexpected:

If you implement an unannounced visit programme and allow it to run its natural course for a period of time, quite often you will find that the unannounced visit is made every Monday, a pattern of behaviour develops . . . My doubt was not that the slaughterhouse was being phoned and saying I am coming to visit, but merely that the unannounced visits had fallen into a pattern.2194

5.187 Mr Christopher Clark, who had served as a meat hygiene inspector2195, told us that it was typical for MAFF VOs on their periodic inspections to arrive mid-morning and depart a few hours later, after discussion with the management of the plant and the principal EHO.2196 Such a visit was unlikely to detect the occasional failure to remove a segment of spinal cord; indeed, this was something that was unlikely to happen if the veterinary officer watched the operation of removing the spinal cord being carried out. If, on average, this failure occurred only in four cases out of 1,000 it is not difficult to see how such instances might have passed unnoticed. Only rigorous inspections of carcasses health stamped and waiting in the chill room would have been likely to bring such shortcomings to light. It seems to us unlikely that such inspections were carried out.

Concerns about MRM from 1 January 1991 to 31 March 1995

Introduction

5.188 As described earlier in this volume, prior to the introduction of the SBO ban in November 1989 it had been decided that there was no need for the recovery of MRM from the spinal column to be banned. The issue of MRM had been
reconsidered in November 1990 by SEAC as part of their wider review of slaughterhouse practices. SEAC, although not specifically referring to MRM, advised that ‘provided all the rules were properly followed and supervised, there was no need to recommend further measures on the grounds of consumer protection’.\(^{2197}\) (For a detailed discussion see Chapter 3 and Chapter 4 of this volume.)

5.189 From January 1991 further concerns were raised about MRM and are considered here. No regulatory action was taken on MRM until 1995, an account of which is given in Chapter 6 of this volume.

**Consumer concerns about MRM**

5.190 In August 1992, consumer concerns about MRM were raised in *Which? Way to Health* magazine, which remarked in an article on BSE:

> The Chief Medical Officer has given the all clear to eat beef, but it’s still possible that BSE could get into our food through scraps from cattle bones used in ground meat products like pâté and some sausages.\(^{2198}\)

5.191 Prior to August 1992 a number of major supermarket chains had ceased using MRM in their own products.

5.192 Mr Mike Wildman, Senior Manager, Meat Technology, J Sainsbury plc, stated in written evidence to the Inquiry that MRM had been removed from Sainsburys’ products since June 1988 because of microbiological concerns. However, the emergence of BSE served as ‘an additional reason to eliminate MRM’.\(^{2199}\)

5.193 Mr Stephen Ridge, Quality Assurance Executive for Somerfields Stores (since 1988) said in oral evidence to the Inquiry that Somerfields had excluded MRM in their own products from 1990. There was concern about the microbiological standard of MRM, but also a concern ‘that the pressing process was actually going to potentially extrude a certain amount of lymphatic and nervous tissues’.\(^{2200}\)

5.194 Dr Alistair Robertson, Director of Technical Operations with Safeway Stores,\(^{2201}\), in his written statement told the Inquiry that it had been Safeway policy since June 1992 not to use MRM from any meat animal species in any Safeway branded products, including pet foods. The decision was ‘based on consumer perception that meat protein from such sources was in some way connected with the restrictions on the use of specified offal’ and ‘Safeway could not invoke reliable systems of traceability on such materials’.\(^{2202}\)

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\(^{2197}\) YB90/11.01/2.6  
\(^{2198}\) YB92/8.02/1.1  
\(^{2199}\) S166 Wildman para. 3  
\(^{2200}\) T63 p. 120  
\(^{2201}\) Since 1995, previously Head of Research and Development, Safeway Stores  
\(^{2202}\) S166 Robertson para. 10
Government consideration of MRM

5.195 The issue of prohibiting the use of spinal column for the extraction of MRM was discussed on 8 April 1994 during a meeting held to review MAFF’s arrangements for disposal of SBO. The meeting was chaired by Mr Meldrum and attended by Messrs Crawford, Baker, Kevin Taylor, Simmons and John Howard.2203 At this meeting:

It was confirmed that the Fresh Meat Regulations prohibited the use of the head for the production of mechanically recovered meat (MRM). CVO thought that one way to increase security would be also to prohibit the use of the spinal column for MRM production, although there was no new scientific evidence to justify such a measure. However Mr K Taylor pointed out that the Select Committee had endorsed the use of restrictions to improve public perception, rather than for scientific reasons, as a valid objective. It was agreed that Mr Baker would consider this problem.2204

5.196 On 29 May 1994, Mr Bradley sent a minute to Mr Meldrum on ‘tightening up’ the SBO Regulations. On removing the spinal cord he suggested:

Training of abattoir workers to a common standard to maximise the safety of carcass splitting (in regard to causing mutilation of the spinal cord) and to maximise the cord removed from carcass might be considered. Perhaps this is already done.2205

5.197 The European Commission’s Scientific Veterinary Committee (ScVC)2206 discussed new BSE-related trade measures for British beef in early July 1994. The main recommendation arising from the meetings, and later adopted by the EC, was that UK exported beef on the bone be accompanied by a certificate to confirm that the holding from which it had originated had been BSE-free for the past six years.2207 The ScVC considered that there was a potential risk if any spinal cord was left in the column and it was then used for MRM.2208

5.198 On 8 July 1994, David Rossington, Head of Beef Division, MAFF,2209 reported on the implications of this in a minute to the Minister:

The spinal column (i.e. the meat and bones around the spine) is the main material used for MRM production from cattle. If its use is banned altogether, then the production of beef MRM could cease. This could again have severe financial consequences for those in the trade involved.2210

5.199 On 11 July 1994, in a submission to Sir Wyn Roberts (later Lord Roberts of Conway), Welsh Office Minister of State, Mr Huws of WOAD noted that:

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2203 MAFF Animal Health Division, Head of Branch dealing with BSE policy, casework and correspondence, May 1993 to June 1995
2204 YB94/4.11/1.1–1.3
2205 YB94/5.29/2.2
2206 The role of the ScVC was to provide independent scientific advice to the Standing Veterinary Committee (SVC), who then made policy recommendations to the European Commission (EC) and Member States. The SVC was made up of representatives from Agricultural Ministries from Member States.
2207 YB94/7.27/4.1; this is discussed in vol. 10: Economic Impact and International Trade
2208 YB94/7.11/6.2
2209 1993–95, previously PPS to Mr Gummer, 1991–93
2210 YB94/7.08/12.2
The spinal column itself is the main material used for MRM production and if its use is banned bovine MRM production will probably cease. The UK trade tell MAFF that they do not use the spinal column from cull cows for mechanically recovered meat and use only prime beef. However, past experience suggests these assurances are not always reliable.\textsuperscript{2211}

5.200 The ScVC held a further full meeting on 11 July. Reporting on this in a minute of the 12 July to the Minister, Mr Eddy noted:

\ldots the Committee have kept the recommendation that we should stop using the vertebrae from cattle killed in the UK for production of mechanically recovered meat. The one small change from the sub group who suggested this as a blanket prohibition for all cattle slaughtered in the UK, is that the full Committee feel that it is only necessary for animals born before 1/1/91. This is a small relaxation but might help the UK trade which tell us that they do not use cull cow beef for MRM.

Mr Eddy attached a Question and Answer brief to the minute:

Q. But what about Mechanically Recovered Meat?

A. The Committee’s concern relates again primarily to practices in other Member States where, unlike in the UK, vertebrae from adult cattle are used in the preparation of MRM. On balance, however, it would be wise to accept this measure on a Community-wide basis. There would be no practical effect within the UK.

Q. Should we not have banned MRM before?

A. No. This can be a valuable raw material and the only vertebrae which give the Scientific Veterinary Committee any cause for concern are not normally used in the UK.

Q. Should we ban all MRM?

A. No. There is no reason to ban the use of materials which are safe.\textsuperscript{2212}

5.201 However, Mr Eddy’s draft question and answers would not have been needed, as the ScVC’s recommendation on MRM was not taken any further. The decision presented to and agreed by the SVC on measures to strengthen EC rules on BSE on 21 July 1994 made no reference to MRM. The European Commission’s final decision (94/474) was made on 27 July 1994.\textsuperscript{2213}

5.202 MAFF prepared a short paper on MRM for SEAC to consider at their meeting on 30 August 1994, seeking the Committee’s views on the use of spinal column in MRM production from cattle born and slaughtered in the UK.\textsuperscript{2214} However, the paper was deferred at the meeting and was discussed by SEAC in June 1995. (See Chapter 6 of this volume for details.)

\textsuperscript{2211} YB94/7.11/6.3
\textsuperscript{2212} YB94/7.12/1.1–1.9
\textsuperscript{2213} YB94/7.27/4.1
\textsuperscript{2214} YB94/8.30/2.1 and SEAC17 tab 6
5.203 Mr Eddy discussed the reason for the preparation of the paper in his statement to us:

This had been put to them because the Scientific Veterinary Committee of the EU Commission had recommended that UK derived spinal column should not be used for production of MRM except from cattle from herds free of BSE for more than six years. Although the Commission had not taken up this recommendation we felt that it would be appropriate in these circumstances to seek SEAC’s views again on the subject. It was also necessary to inform the Committee that contrary to previous advice (which I understand had been given to the Committee prior to my Secretaryship in the early days of SEAC) that MRM was produced only from young cattle and did not use older cull cattle, we now understood that cull cattle were used to produce MRM. Again the Committee concluded [in June 1995] that provided that the SBOs (particularly the spinal cord) were properly removed, then production of MRM from the remaining vertebral column was safe and there was no reason for it to be banned.\textsuperscript{2215}

Amendments to the SBO Regulations

5.204 In the following paragraphs we describe the amendments to the SBO Regulations in relation to human health from 1991 to March 1995. Changes to the SBO Regulations with implications for animal health are discussed in vol. 5: Animal Health, 1989–96.

The Bovine Offal (Prohibition) (Amendment) Regulations 1992

5.205 The Bovine Offal (Prohibition) (Amendment) Regulations came into effect on 12 March 1992,\textsuperscript{2216} introducing amendments to the original SBO Regulations. The amendments to the Regulations gave statutory force to guidance on bovine brain removal issued by MAFF in June 1990 (see Chapter 4 of this volume).

5.206 The removal of meat from bovine heads after the skull had been opened was prohibited.\textsuperscript{2217} In addition, brain removal could be carried out only in a place kept free at all times of food intended for human consumption.\textsuperscript{2218} These prohibitions were introduced to prevent cross-contamination of carcasses for human consumption from possibly infective brain material.

5.207 The original prohibition on selling SBO or using SBO in the preparation of food for human consumption was extended to cover ‘any material derived wholly or partly from’ SBO.\textsuperscript{2219}

5.208 Further amendments under the Regulations were also made regarding the staining, sterilisation and disposal of bovine brains.\textsuperscript{2220} The need for most of these amendments had been recognised some two years earlier.
The Bovine Offal (Prohibition) (Amendment) Regulations 1994 and infectivity in distal ileum of calves under the age of six months

5.209 When the SBO Regulations were drafted during June–November 1989, it was decided that offal from calves younger than six months of age posed no risk to human health, as the BSE agent was unlikely to be found in such offal. On the other hand, certain types of offal from calves older than six months were designated as SBO under the Regulations. For a detailed discussion on the exclusion of calves aged under six months from the SBO Regulations, see Chapter 3 of this volume.

5.210 On 17 June 1994, Mr Meldrum minuted MAFF Ministers and other MAFF officials to advise them about the results of a MAFF-funded pathogenesis experiment with calves. The experiment had detected the BSE agent in the distal ileum (small intestine) of calves killed at six and ten months, having each been fed – at the age of four months – with 100 g of brain homogenate from a clinical case of BSE. He noted that this was ‘the first time [that] the BSE agent has been shown to be present in tissues outside the central nervous system’. Mr Meldrum advised that publication of the preliminary results was being arranged, and that the final results would be available in September 1994, February 1995 and May 1995.

5.211 Mr Meldrum’s minute was discussed with the Parliamentary Secretary, Mr Soames, on 21 June. In a minute of 22 June to the Minister, Mr Packer, Mr Dugdale and Mr Rossington and copied to other MAFF Ministers and to the Permanent Secretary, Mr Eddy noted that Mr Soames had suggested that the views of the SEAC be obtained before any public announcement was made. He also noted that DH agreed with this suggestion. Mr Charles Lister of DH, who was responsible for the administrative aspects of BSE, was sent a copy of Mr Eddy’s minute.

5.212 On 22 June 1994, Dr Jeremy Metters, Deputy CMO, contacted Dr David Tyrrell, the Chairman of SEAC, for his personal reaction to the results. Dr Metters reported, in a minute to Dr Kenneth Calman, the CMO, that Dr Tyrrell responded that ‘scientifically, these results do not come as a surprise’ and that ‘the calves in question were fed BSE-infected brain from a clinical case designed to provoke transmission’. Dr Metters further noted in the minute:

> ... the risk to human health, if any, in Dr Tyrrell’s view comes from human consumption of the SBOs before the offal ban was introduced in 1989. Any potential risk from cattle now entering the food chain is likely to be small when compared with any risk that may have been present pre-1989;

> in Dr Tyrrell’s view, the issue is one of political and public perception of risk which has always been magnified out of proportion to the scientific assessment.

5.213 Mr Kevin Taylor, Assistant CVO, in a minute on the experiment results to Mrs Shephard, noted that the ‘SBO ban is a vital control in the protection of

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2221 The pathogenesis experiment is discussed in detail in vol. 2: Science. SEAC’s advice on the results of the experiment is described in vol. 11: Scientists after Southwood
2222 Including Mrs Shephard, Mr Soames, Mr Packer and Mr K Taylor
2223 YB94/6.17/1.1
2224 YB94/6.17/1.1–1.2
2225 January 1993 to November 1995, previously Health Aspects of Environment and Food Division
2226 YB94/6.22/1.1–1.2
2227 YB94/6.23/1.1
At worst this indicates that, contrary to what was believed until now, a potentially infected tissue is still available for use in human or animal food. . . This is why Tyrrell is being given the information and asked for advice. It is unlikely that his committee will be content to recommend no action.

5.214 Mr Taylor advised that SEAC might suggest extending the SBO ban to cattle of all ages:

Domestically, extending the SBO ban to cover intestine at any age would cause few practical problems. Extending the full SBO ban would be much more difficult because calf carcasses are not normally split, so the spinal cord is not accessible for removal.2228

5.215 SEAC held an ‘exceptional meeting’ on 25 June 1994 to focus on a pre-publication paper on the pathogenesis tests and to provide advice to the Government on:

(a) the coverage of the specified bovine offals ban – whether the findings indicate that the range of tissues continues to be appropriate or needs to be amended;

(b) the exemption from the specified bovine offals ban of calves slaughtered before the age of six months of age;

(c) whether or not the current advice given by the CMO needs to be amended in the light of these findings;

(d) whether any other safeguards are necessary.2229

5.216 SEAC expressed concern that, in relation to the Government’s request for advice, they ‘were expected to produce top class scientific opinions in a rush. This was an unrealistic expectation.’ SEAC discussed the pathogenesis experiment and concluded:2230

. . . that the theoretical risk of infection of man via food derived from infected calves is minuscule if it occurs at all but information on calves is still very limited and as the experiment is still in progress and further information is expected it will be necessary to monitor these results carefully to see if this basic conclusion is correct and to see whether further action is needed . . .

It is also noted in relation to these conclusions that at this stage one cannot give a definitive answer. There is a theoretical risk and Government could respond by a limited SBO ban for calves to exclude the intestines. The

2228 YB94/6.23/2.1–2.3
2229 YB94/6.25/1.1
2230 SEAC’s discussion on the experiment is discussed in detail in vol. 11: Scientists after Southwood
Committee was also concerned that other tissues might carry infectivity and be used for human food but there was no evidence of this at the moment. The situation should be carefully monitored.\textsuperscript{2231}

5.217 In a joint statement to the Inquiry members of SEAC discussed this conclusion:

The results were preliminary and we were uncertain of the relevance of the very high exposure used in the experiment to the control of the epidemic. If intestines represented a risk to the human food chain from normally reared calves it must be minuscule. However, although we thought that no action was called for, we realised that those in government would have to respond to other than scientific opinions.\textsuperscript{2232}

5.218 Mr Meldrum and Mr Eddy met with the CMO on 26 June 1994. Mr Meldrum described the meeting in his statement to us:

Mr Eddy, Mr Bradley and I attended lengthy meetings over the weekend with the CMO at which the CMO explained his concerns about the findings of the pathogenesis study and that the DH wished to get advice from SEAC. The CMO was anxious to make a statement as soon as possible and wished to avoid any suggestion of there being a delay in dealing with the information and taking any necessary action to protect public health. He therefore went through the pathogenesis study in detail and reviewed our present knowledge of the epidemiology of BSE.\textsuperscript{2233}

5.219 Mr Eddy said in his statement to us:

I . . . attended a meeting on 26 June 1994 with CMO, CVO and other MAFF and DH officials. At that meeting the CMO concluded that he would be advising Ministers that the distal ileum and the thymus from calves should be proscribed as SBO. Those present including Mr Haddon, the CVO, Mr Bridges (DH) and I agreed with this conclusion.\textsuperscript{2234}

5.220 Sir Kenneth Calman said in his statement, although not specifically referring to the above meeting, ‘My recollection was that the evidence seemed clear that offal from calves needed to be banned, but that beef and veal were safe’.\textsuperscript{2235}

5.221 Mr Meldrum reported the meeting the next day at a meeting with Mrs Shephard, Mr Soames, Mr Packer, Mr Capstick, Mr Eddy, Mr Rossington and others on the experiment results.\textsuperscript{2236} The CMO was ‘clearly worried, and believed that we must be ultra-cautious, and was tending to the view that the SBO ban should be extended to include calves’ intestines’.\textsuperscript{2237}

5.222 Mr Eddy noted that since the SEAC meeting ‘further checks had been carried out, and it was clear that the ileum was not used for human consumption in the
United Kingdom. Mrs Shephard said that SEAC’s findings ‘were in fact inconclusive, but this issue would not be looked at rationally by the public’.  

5.223 Mr Rossington pointed out that a potential ban on calves’ SBO would have ‘a serious effect on the export of calves, and a knock-on effect on the price of beef in the UK and therefore on intervention’. The Minister would need to be ‘persuaded that there was a scientific public health case before taking any action’.  

5.224 The Minister, Mrs Shephard, was recorded as responding:

. . . where public health was concerned, trade was the least important consideration. If the CMO advised that action should be taken, she would have to follow his advice. It was important in any case to look beyond the immediate implications: it would be of no help to the trade if confidence in the industry was lost totally.  

5.225 Later that day Mrs Shepherd met with Dr Calman, DH and MAFF officials to discuss the action to be taken in response to the results of the BSE pathogenesis experiment. The note of the meeting records that Mrs Shephard opened ‘by emphasising the importance of MAFF and Department of Health working together as closely as possible in relation to BSE’. Dr Calman advised:

. . . that the results of the pathogenesis experiment were difficult and sensitive; the science was not complete so there was a degree of uncertainty. This in itself created a potential problem of public perception.  

5.226 Dr Calman’s conclusions on the action to be taken on the basis of the results of the pathogenesis experiment were recorded:

. . . First, for all calves slaughtered between two and six months, intestines and thymus should be removed. There was no scientific evidence to justify removal of spleen, tonsils and spinal cord. For calves under two months going to human consumption, the same conditions should apply, though calves under two months which died on farm would not need removal of intestines and thymus, but if rendered should not be used for human consumption.  

5.227 He noted that ‘the decisions reached could be justified on the basis of science’.  

5.228 The reason behind the decision to include thymus was explained in a press release issued by Dr Calman and Mr Meldrum on 30 June:

Although no finding of infectivity has been made in the bovine thymus this is an organ which is sold for human consumption as sweetbreads, and which is a permitted ingredient of meat products. Inclusion in the definition of
specified bovine offals will ensure that any risk of transmission of BSE by this route is closed off.  

5.229 In his written statement to the Inquiry, Dr Calman discussed the reason underlying his conclusions:

The Department of Health has always adopted a precautionary approach in relation to public health issues arising from BSE in their deliberations with MAFF.

On occasions this has necessarily resulted in differences of opinion. An example of this included the extension of the SBO ban in 1994 to include the removal of the intestines and thymus of calves under 6 months of age. MAFF argued against the extension of the ban as an additional expense to the industry not justified by scientific evidence. I and the Department of Health, notwithstanding the advice of SEAC, argued strongly for an extension of the ban which was ultimately accepted by Ministers.  

5.230 The reaction by the media to the development is discussed later in this chapter (see paragraphs 5.388–5.390).

5.231 On the same day, MAFF forwarded letters to the operators of all slaughterhouses recorded as handling calves, informing them of the proposed extension to the SBO Regulations on calves. It noted that as there was an obligation under the Food Safety Act 1990 formally to consult organisations affected by the proposed amendments to the Regulations, there would be a delay in its implementation. Although the ban was only a ‘precautionary measure’ the letter stated:

. . . the issue will generate a great deal of public interest. Ministers have no doubt that you, and other slaughterhouses which handle calves, will wish to reassure the public by putting the new arrangements into effect immediately, on a voluntary basis until the Regulations can be amended.  

5.232 Following public consultation, on 2 November 1994 the Bovine Offal (Prohibition) (Amendment) Regulations 1994 came into force in England and Wales, extending the definition of SBO to:

(i) the thymus and intestines of an animal, two months or over but not more than six months of age, which had died or been slaughtered in the United Kingdom;

(ii) the thymus and intestines of an animal, under two months of age, which had been slaughtered in the United Kingdom.

5.233 The Bovine Offal (Prohibition) (Scotland) Amendment Regulations 1994 came into force on the same day. The Bovine Offal (Prohibition) (Amendment)
Regulations (Northern Ireland) 1995 did not come into force until 28 April 1995. For further information see vol. 9: Wales, Scotland and Northern Ireland.

5.234 Cabinet consideration of this matter, and public reaction, are discussed at the end of this chapter.

Developments in knowledge and understanding about BSE from 1991 to 31 March 1995

Introduction

5.235 During the period 1991 to 31 March 1995 there were several significant milestones in the development of knowledge and understanding about BSE. We have just described the discovery of BSE in the distal ileum of calves in mid-1994. Other developments and the responses of MAFF and DH at that time are described in this section. Public pronouncements relating to these developments are covered in a separate section (see paragraphs 5.295–5.394). Further details of the science behind these developments are given in vol. 2: Science.

5.236 Developments in relation to the incidence of CJD in farmers and teenagers during this period are described in vol. 8: Variant CJD.

Transmission of BSE to primates

5.237 On 14 February 1992, the Medical Research Council (MRC) advised MAFF and DH that BSE had been experimentally transmitted by inoculation to marmosets, a primate species.

5.238 Mr Lowson (Head of Animal Health (Disease Control) Division, MAFF) advised Mr Gummer of the results and noted:

At first sight this is not particularly surprising and has no implication for human or animal health. Nevertheless we have agreed with DH that it would make sense to call together members of the Tyrrell Committee as quickly as possible to consider the matter, and in the light of their advice we can consider with DH how to put the information into the public domain.

5.239 On the same day, Mr Thomas Murray (Head, Environmental Health and Food Safety Division, DH) minuted Dr Kenneth Calman informing him of the results. Mr Murray said that ‘news of this development has not yet been made public but there is always a risk that details will leak out and attract media attention before a formal DH/MAFF co-ordinated announcement’. He attached a background note by Dr Ailsa Wight, who was responsible for handling BSE matters, which included the following points:

Significance of New Findings
Transmission of other SE agents to primates, including marmosets, has occurred in the past, and is well recorded. CJD, kuru and scrapie agent have been successfully transmitted to primates.

... The finding is not therefore particularly unexpected, although interesting. Moreover, it does not have any particular implications for human health with respect to BSE agent.

Action

As a primate is affected, in view of any potential for the development of human disease, DH is taking this finding seriously. We are consulting with independent expert members of the Tyrrell Committee, which advises the Government on all matters relating to SEs.

... It is vital we at DH co-ordinate our response with MAFF, though perhaps in this instance our interest might be greater than MAFF’s as primates are one step removed from humans.

LINE TO TAKE

DH and MAFF [are] closely monitoring research developments in the BSE field on a broad front and are aware of the recent (Marmoset) results.

At this stage there would seem to be no significant implications for present BSE control measures. However, the Tyrrell Committee has been asked to give special consideration to the study results.2256

5.240 Dr (later Sir) Dai Rees, Secretary then Chief Executive of the MRC (1987–96), wrote to Dr Calman on 21 February, and said in relation to the experiment:

We were informed about this on 14th February, when we understood that MAFF would shortly be issuing a press statement. At the beginning of this week it became clear that neither DH nor MAFF would be prepared to go public until the Tyrrell Committee (or rather key members of that Committee) had met to consider the matter. This could not be arranged until the afternoon of 27th February. It seems to us, however, that the outcome of the experiment was so predictable, that any press statement would give it undue prominence, and indeed could lead to unwarranted public anxiety. I am doubly apprehensive that it is proposed that the release be so delayed to allow time for a possible leak; if there is indeed such a leak, to follow it by a press release would be a real shot in the foot.

I would therefore urge that any thought of a press statement be abandoned.2257

2256 YB92/2.14/3.1–3.3. This experiment was subsequently reported by Wells et al., Veterinary Record, vol. 132, p. 403
2257 YB92/2.21/6.1
5.241 The members of SEAC considered the transmission of BSE to marmosets, at the request of DH, at an informal meeting on 27 February 1992.

5.242 It was noted in the minutes of the meeting:

. . . that although pathological study of the marmosets was continuing, enough had been done to confirm the presence of an SE. In the scrapie cases, there were no gross pathological findings. Histopathology revealed moderate changes in the brain stem and severe vacuolation in the cortical areas, which was asymmetric in the cerebral hemispheres. In the BSE cases, again there were no gross changes. Histopathology was similar to the scrapie cases but almost all confined to the brain stem, basal ganglia, and thalamus, with much less vacuolation in the cerebral cortex.2258

5.243 The members of SEAC concluded that the inoculation into the brains of the marmosets was ‘more likely’ to have caused BSE than ‘giving it by mouth’, on the basis of previous studies of spongiform encephalopathies. Although marmosets had not previously been infected with BSE, ‘they had been infected with S.E including scrapie using similar methods so the results of this experiment are not surprising’. SEAC concluded ‘that the measures at present in place provide adequate safeguards for human and animal health’.2259

5.244 Dr Harry Baker of the MRC2260, who had conducted the experiment, told the Inquiry in oral evidence that, at the time, he thought that Dr Rosalind Ridley2261, his MRC co-worker on the experiment, and he were in agreement with SEAC’s conclusion.2262

5.245 MAFF and DH then published a news release on 4 March 1992, giving details of the experiment and SEAC’s conclusion, which concluded:

Although it was already known that marmosets were susceptible under similar artificial laboratory conditions, to other spongiform encephalopathies, the Spongiform Encephalopathy Advisory Committee, chaired by Dr David Tyrrell, were immediately asked to advise on the implications of this experiment. The Committee concluded that the results of the experiment were not surprising and had no implications for the safeguards already in place for human and animal health.2263

The press release is detailed in full in paragraphs 5.298–5.299 below.

5.246 In June 1992, SEAC published an Interim Report on Research and considered the work to date on BSE and transmissibility. It noted:

The epidemic of the bovine disease sparked off renewed interest in transmissible SEs generally and several species are now known to have been affected by this group of disorders . . . and others have been shown to be susceptible to experimental challenge. The most common of these diseases is scrapie in sheep, the others (excepting BSE) being reported infrequently.
There remains no evidence to suggest that the human disorders are causally associated with those in animals.\textsuperscript{2264}

5.247 The interim report then repeated the conclusion SEAC had reached on 27 February 1992 in relation to the marmoset experiment:

At present, the Committee are satisfied that all the necessary safeguards are in place to minimise further spread of spongiform encephalopathies in animals and to prevent any risk of transmission to humans.\textsuperscript{2265}

5.248 In oral evidence, Mr Gummer referred to the marmoset experiment when asked whether he had considered, at any stage, that possibly ‘Southwood is wrong and there is a link between BSE and some disease of humans’. He stated:

. . . We were always asking questions. If I may say so they were of a more precise kind than that. We would say: ‘Well, what happens if this happens? What happens if that happens?’ Constantly doing that. And I think that was the proper way to do it. We were faced with the very clear and almost – I only say almost because I would not say like to say any more – almost universal advice which was very clearly said. There was Southwood itself, then there was the international statement which quite clearly said this, then Dr Tyrrell said it, that the risk was so remote as for all practical purposes to be ignored, and we went back to them all the time. But what we went back to was to say this piece of information that we have just got, this marmoset, this issue, does that make any difference to your advice?

Now that seems to me the proper way to approach it. In other words, we had asked the scientists to give us the best advice in the circumstances in which they were. Our point of view, having accepted that advice, was constantly to make sure that those circumstances had not changed, and that their advice was no different. And during the period of time in which I was Minister and my junior Ministers were with me, that science was tested all the time, but it did not change. The advice was and continued to be that the risk to human beings was remote . . . \textsuperscript{2266}

5.249 Sir Kenneth Calman, in reference to the marmoset experiment, said in his statement to the Inquiry that ‘these experiments were significant in the fact that they extended the host range of experimental BSE to include a primate species’.\textsuperscript{2267} He then said in oral evidence that the result of the marmoset research was:

Another bit of evidence, albeit experimental, which simply confirmed the fact that transmission was possible. But it also provides me with an opportunity of saying how that would be dealt with. And that would be that we would have asked, as we did, SEAC and any other expert committee to give us that advice. We relied very heavily on independent experts’ advice to look at the data, give us their views from which we could help Ministers take things forward. They did look at that and concluded that no further action was required at the time.\textsuperscript{2268}
Increase in the host range for BSE

5.250 Between 1991 and March 1995, a number of zoo animals succumbed to spongiform encephalopathies. A puma in Chester was reported in 1991 to have feline SE (FSE), possibly from ingesting infected cattle tissue. In 1992 a cheetah in Australia, exported from Marwell Zoo in England, died of FSE. It was noted in the minutes of a meeting of the Central Veterinary Laboratory (CVL) and the Neuropathogenesis Unit (NPU) on 8 April 1992 that the cheetah (while in England) ‘had been fed on knacker meat (containing little offal, but possibly spinal cord) at a zoo in an area of relatively high BSE incidence’.

5.251 SEAC referred to the CVL/NPU meeting minutes at their meeting on 28 April 1992, and recorded that the captive wild cat cases ‘further weakened the Southwood Working Party’s view of the likely limited host range of SEs’.

5.252 The cases were discussed in an article in the Independent on 29 June 1992 (discussed in paragraphs 5.305–5.306 of this chapter).

5.253 Dr Tyrrell was asked in oral evidence if the transmission of BSE to cats and captive wild cats altered his perception of the risk to humans:

   LORD PHILLIPS: Were these matters which shifted your perception as to just how unlikely it was that BSE would be transmissible to humans?

   DR TYRRELL: It is very difficult, even with hindsight, sir, to recall. I think it shifted it a bit. I think there are two points: one is that in fact what you have just described so clearly took place over quite a long period of time, because first of all the epidemic took about a year to build up, secondly the study of the cat agent had to show it to be a really transmissible spongiform encephalopathy, and then finally it had to be characterised, which takes a year or more, to show that it really was indistinguishable from the BSE agent. By that time years had gone by. I think my main comment would be that I had always been worried whether BSE would pass to man, and I saw this as a possible example of what might happen if it did get to man. We came to the conclusion that it was likely to have been animals which had been fed pet food, offal off the market stall or something like that, and this was the consequence. So it just meant that we had to be very serious about considering whether there was evidence of it spreading to other species.

   Incidentally, if I may just add one or two other things, there were a number of other species besides even large cats: the kudu, the nyala, so we knew it did not have to go only to cattle already.

5.254 In September 1992, three kudu from London Zoo succumbed to SEs. There had been previous reports of SEs in antelopes – a nyala had succumbed to an SE in June 1986, a gemsbok in June 1987, an Arabian oryx in March 1989 and a greater kudu in August 1989.
Mr Lowson minuted Mr Soames on 25 September 1992 to inform him of the infection in the three kudu. Mr Lowson advised that in one animal transmission from dam to calf appeared to be ‘the most likely source of infection’. He noted that the case was likely to be published in the *Veterinary Record* and the zoo ‘had not made a secret’ of the case. He had prepared a background note and answers to possible questions.

The background note said:

... In one animal born after contaminated feeds were withdrawn, the source of infection may have been its mother as she died of the disease four months after calving. The most recent case was born in August 1990, long after the withdrawal of potentially contaminated feed, and his mother appears still to be healthy. It therefore seems that the disease may have been spread from animal to animal or indirectly via the environment. This adds to the evidence that these animals are particularly susceptible to the disease (suggested by the possibility of maternal transmission and the short incubation period observed in the past). Why they should be so susceptible, and why they apparently transmit infection (as sheep do with scrapie) while cattle apparently do not transmit BSE, is unknown.

A possible question, ‘Is there any risk of spread to humans?’, was answered:

There is no evidence of any risk to human health. Similar diseases, e.g. scrapie in sheep and chronic wasting disease in mule deer and elk, also spread from animal to animal. There is no evidence of any connection between an animal SE and any human spongiform encephalopathy. As a measure of extreme caution, to deal with the remote risk that the BSE agent might be different from those of such long-standing diseases, those cattle tissues which might be harbouring the BSE agent in animals which have not shown clinical signs are banned from human and animal consumption. And suspect BSE cases are slaughtered and completely destroyed.

Mr Soames referred to the minute in his statement to the Inquiry:

I am sure that I would have sought advice from officials on whether these findings had any relevance to human health, and was told that they did not, and that there was no need to review the public message about human health (although I have no record of this).

At their meeting on 15 October 1992, SEAC considered a paper prepared by MAFF on the incidence of SEs in cats and exotic species. SEAC concluded that the apparent high susceptibility of kudu was not relevant to BSE in cattle. No discussion on the implications for human health was recorded at this meeting.

In October 1992, London Zoo introduced safety measures to prevent any risk to the public and zoo staff from the remaining infected kudu. Tools used in the kudu pen were not to be used elsewhere, boots and overalls were to be changed on entering and leaving the pen, the kudu were not to be moved from the pen, and all
waste from the kudu pen was to be incinerated. The kudu were not considered to be a risk to the public. 2280

5.261 Professor John Collinge, Professor of Molecular Neurogenetics at St Mary’s Hospital and a member of SEAC since December 1995, was asked in oral evidence:

Had your perception of the likelihood or unlikelihood of transmissibility to humans been changing over the years up to 1995?

5.262 He replied:

Yes, it had. Certainly the appearance in domestic and captive wild cats was a very important development. It demonstrated that you could no longer really plausibly argue that BSE was just scrapie in cows with all the same properties. This agent, wherever it had originated from, had quite different biological properties to scrapie as manifested by the extended host range affecting species, including things like nyala and kudu as well as the cats that had not been affected by scrapie before, so far as we were aware.

Whether humans were part of that extended host range of BSE was an entirely open question. The fact that it appeared in cats did not mean that humans were any more at risk. It may be that we were less at risk than cats or more at risk than cats, but it certainly put to bed the idea that this was just going to behave like sheep scrapie. 2281

Developments in understanding about dose

5.263 In vol. 2: Science we examined how understanding about dose (and in particular, the amount of infectious material sufficient to cause infection) developed during the BSE story. We also discuss dose in relation to animal health issues in vol. 5: Animal Health, 1989–96. In the following paragraphs we shall look briefly at the results of two experiments that demonstrated oral transmission of BSE using only small amounts of BSE-infected material, in the first case to sheep and in the second case to cattle. Before these results were known, many MAFF scientists and officials assumed that the amount of infectious material sufficient to cause infection would be much higher. The results might therefore have provided an opportunity to review the BSE control measures that had so far been introduced.

5.264 The results from both experiments were widely known within MAFF by the end of 1994, but, as described below, we have seen some evidence to suggest that preliminary results for the sheep experiment were sent to some MAFF officials in 1990. We have tried to determine when MAFF first knew about these results, but without much success.

Oral transmission of BSE to sheep

5.265 The NPU, part of the Institute of Animal Health (IAH), initiated an experiment in mid-1988 with groups of sheep and goats, which were given either 0.5 grams of BSE-infected cattle brain homogenate orally or 0.05 grams by
intracerebral inoculation. The sheep used in the experiment were from two lines selected and bred for their different responses to scrapie infection: the ‘positive’ line sheep were susceptible to scrapie challenge and the ‘negative’ line sheep were not. At the time, it was known that natural scrapie in goats was very rare. The sheep and goats were monitored to determine whether they succumbed to the disease. The two routes of infection were shown to be almost equally efficient in transmitting the disease, and the results highlighted the ability of the BSE agent to infect orally with a small amount, even allowing for a species barrier (ie, cattle to sheep). 2282

5.266 Senior officials at MAFF were aware of the results of this work by late 1994. On 2 December 1994, in a minute to the Minister and copied to others in MAFF, Mr Packer (Permanent Secretary) stated that ‘one experiment has shown that 0.5gm of infected raw cow’s brain fed to sheep will cause BSE’. 2283

5.267 Dr Chris Bostock (Head of Division of Molecular Biology, IAH, 1989–97) told us that the results would have been known to some MAFF officials in 1990:

Those responsible for this experiment were aware early in 1990 that one of the six orally dosed “positive” line sheep was showing clinical signs of a transmissible spongiform encephalopathy. Post mortem histopathological examination of the brain subsequently confirmed that this animal had a transmissible spongiform encephalopathy. This fact was recorded on the April 1990 summary data sheet for the transmission experiments that would have been sent to MAFF to keep them up to date with progress. The first appearance of clinical disease in the above ‘positive’ line sheep was followed some 200 days later by a transmissible spongiform encephalopathy in one of the orally dosed ‘negative’ line sheep (confirmed November 1990) and, after a further 200 days by a transmissible spongiform encephalopathy in one of the orally dosed goats. Apart from being recorded on the up-dated data sheets which were regularly sent to MAFF, the incubation periods for these latter two apparent transmissions of BSE were noted in a letter from David Taylor, dated 17 January 1992, to Ray Bradley shortly after confirmation of the disease status of the goat. 2284

5.268 Dr Bostock added that interim results from this experiment were published in the Veterinary Record in October 1993, but observed that proof of transmission of BSE to these animals had to await strain typing which was completed in November 1993 and ‘MAFF were informed shortly afterwards’. 2285

5.269 In oral evidence to the Inquiry Dr Kenneth MacOwan, Scientific Liaison Officer for MAFF, stated that:

One of the issues where the Chief Scientists Group has been, if you like, pro-active is in trying to stimulate research on BSE in sheep, to the work in 1988, SE 1402 showed that BSE would transmit to sheep. Also that it caused the disease in sheep that were genetically not susceptible to scrapie. These results were available in late 1989, 1990, 1991, 1992. They were all published. It seemed to many of us, not just CSG of course, that this should

2283 YB94/12.02/1.1–1.3
2284 S108A Bostock para. 4
2285 S108A Bostock para. 6
be taken further. If you like, it is the obverse of what we were talking about earlier of putting scrapie into cows. In spite of that, there was not really much support for doing this.

Now, I think it was discussed in SEAC more than once; and I have often asked myself why it was not taken forward earlier; and you can come back to the fact that we knew little about the genetic susceptibility of sheep to scrapie. We knew nothing about the genetic susceptibility of cows to BSE. And these were critical facts in taking this forward. 2286

5.270 In a statement to the Inquiry, Mr Meldrum said:

I note that the ‘interim results’ of the experiment conducted at NPU which involved oral dosing of sheep and goats with 0.5 grams of BSE infected cattle brain, were not published until October, 1993. Also, even at that stage NPU did not know that they had transmitted BSE orally to sheep. The recording by NPU in November 1990 of the appearance of a scrapie-like disease in the ‘negative line’ sheep was very much later than the time during which MAFF was considering the proposed SBO ban. 2287

... As far as I am aware the preliminary results of NPU’s experiment involving the intracerebral inoculation of BSE to sheep and goats were not available until November/December 1989, and the results of oral exposure of sheep and goats to BSE were not available until, at the earliest . . . November 1990. In actual fact the first results did no more than confirm that sheep and goats were susceptible to BSE by exposure by this route and did nothing to inform about the infective dose even if the dose, in the inoculum was known. 2288

5.271 There was some further discussion with Mr Meldrum about this experiment during oral evidence, in particular the rationale behind the selection of 0.5 grams of BSE-infected material for oral dosing:

MR WALKER: I wanted to refer you to paragraph 3 [of Dr Bostock’s statement S108A]:

‘We [that is the Institute of Animal Health] had been supplied by MAFF with samples of brain material from four BSE affected cattle in order to set up a number of mouse transmissions. The material that was left over, about 10 grammes I believe, was pooled, homogenised and apportioned between experimental animals as follows . . .’

Then at the first bullet point there he deals with intracerebral inoculation and there each of the sheep and goats in question received 0.05 of a gramme. Dr Bostock continues:

2286 T39 pp. 85–6
2287 S184E Meldrum para. D70
2288 S184E Meldrum para. D74
'Thus the size of the oral dose was determined not so much by any theoretical consideration of what might constitute an infectious dose but by the limitations imposed by the experimental design and the material available.'

It seems that when making what use they could of this 10 grammes of material, those involved thought half a gramme of the pooled and homogenised brain was likely to contain a sufficient oral dose of BSE agent to see if sheep and goats would succumb. Do you agree that that is what seems to have been the position?

MR MELDRUM: Quite clearly the experiment had a number of purposes, one of them was that, yes, to determine whether a particular dose would cause disease in sheep. It was not even certain of course that BSE would transmit to sheep at that stage, we did not know. That was the first thing. Secondly, yes, it might give some indication as to dose. Can I put that in context?

MR WALKER: I do not suggest the experiment was designed to find the dose. It was just designed to see whether they would succumb?

MR MELDRUM: Indeed, both by intracerebral inoculation and also by oral dosing. Of course in the timeframe I thought we were considering that information was not available. I put that into my statement, as you know…

MR WALKER: The result was not available.

MR MELDRUM: I am not even sure by the way Mr Walker that I knew of the detail of the planning of that either.

MR WALKER: That is what I wanted to ask you about. Can you recall whether you knew that they were using half a gramme as an oral dose?

MR MELDRUM: Frankly, I cannot recall.2289

The attack rate experiment

5.272 An ‘attack rate’ experiment started at the CVL in January 1992 involved groups of cattle orally receiving doses of 1 g, 10 g, 100 g or 3 x 100 g of BSE-infected cattle brain homogenate and being monitored to see whether they succumbed to the disease.2290 We describe below consideration of the interim results of this experiment, when it became clear that one gram of BSE-infected cattle brain homogenate could be sufficient to cause disease when transmitted orally.

5.273 On 8 September 1994, MAFF officials, including Mr Kevin Taylor and Mr Andrew Fleetwood of the SVS, and Mr John Wilesmith, Head of Epidemiology, CVL, met the UK Agricultural Supply Trade Association (UKASTA). The experiment was discussed and it was noted:

2289 T123 pp. 22–3
2290 YB92/2.00/2.2

518
Although the work was not yet complete, the indications were that a very low dose was sufficient to cause BSE.\textsuperscript{2291}

5.274 Mr Gerald Wells, Head of Neuropathology Department, CVL, was asked in oral evidence whether he was surprised to learn that one gram of BSE-infected material was an effective dose:

MR WELLS: Yes, I think it was rather a surprise to us initially that 1 gramme of brain extract – brain homogenate from affected cattle would affect another animal. It had implications that material that had gone through the rendering process and subsequently ended up in meat and bonemeal had to be in – could be in very small quantities to result in infection.

MR WALKER: Thank you. Are there any other implications of that result that you thought were important?

MR WELLS: I think it was the first time that we realised that any species could be infected by such a small dose relative to their body weight. And so although this was a ruminant, it had implications also for the possibility that in monogastric animals, relatively small doses would be effective by the oral route.

MR WALKER: When you say monogastric animals, what are you referring to?

MR WELLS: I am including all mammals that have one stomach, including man of course.\textsuperscript{2292}

5.275 On 28 February 1995, Mr Meldrum informed Mr Packer about the attack rate results and indicated that the amount of unprocessed brain needed to cause BSE was very small. He explained that further studies were necessary to determine the minimum infective dose. He also commented:

The findings may help to explain why the feed ban was less effective than intended, and they will certainly cause UKASTA uneasiness. This supports our view that we should tighten up our controls on the disposal of the specified bovine offals; an issue we have discussed with Ministers.\textsuperscript{2293}

Studies reported later in 1995 also showed that part of the bovine eyeball contained detectable levels of infectivity.\textsuperscript{2294} This is discussed in Chapter 8.

5.276 Some of the provisions in the Specified Bovine Offal Order 1995, introduced in August 1995 (Chapter 6 of this volume), were a consequence of these findings about infective dose. The Order prohibited the practice of removing the brain from the skull and required the entire skull, including the eyeballs, after removal of the head meat, to be disposed of as SBO.
The minutes of SEAC’s meeting of 5 January 1996 record in relation to the attack rate experiment that definite clinical signs had now been seen in the 1 g challenge group, and that pathology was awaited.\(^{2295}\)

**Report on TSEs by SEAC in September 1994: Transmissible Spongiform Encephalopathies: A Summary of Present Knowledge and Research**

5.278 In September 1994, SEAC produced their report *Transmissible Spongiform Encephalopathies: A Summary of Present Knowledge and Research*. This was their second report\(^ {2296}\) and its aim was to summarise what was known about the TSEs, providing information on research both completed and under way. In the preface to the report, SEAC commented: ‘We believe the time has come to set out our understanding of these diseases since this forms the scientific basis of the advice we give.’\(^ {2297}\) The MAFF Minister, Mr Waldegrave, announced publication of the report in an answer to a Parliamentary Question on 7 February 1995.

5.279 The report’s coverage of risk assessment, CJD surveillance and monitoring, which was part of chapter 5 on transmission, was as follows:

The SEAC has continuously reviewed the new data emerging from the epidemiological and other studies on the BSE epidemic with a view to making a judgement of the risks to man and other species. The risk to man from BSE depends on the inherent risk that the BSE agent is a human pathogen, which cannot yet be evaluated, and on the level of exposure to the pathogen, which can. Since scrapie was first clearly described in the literature of the 18\(^ {\text{th}}\) century there has been no epidemiological linkage of the disease, or indeed any animal TSE, with human disease, or vice versa. This does not prove there is no risk, but it suggests that any risk is probably small. To check that it is, the only means is to continue the in-progress CJD surveillance programme. This is because any unaccountable rise in incidence of CJD might hypothetically derive from animals. The logical target origin would be BSE, because it is a new disease and had occurred at a high incidence.

Twelve years after the first effective exposure of cows to BSE agent no such cases in man have been identified. Two recent cases of sporadic CJD in British dairy farmers are regarded as chance occurrences, not least because the clinical signs and other features are entirely consistent with a diagnosis of sporadic CJD. They are not like those in kuru or in peripherally exposed iatrogenic cases, which experts consider would be the more likely clinical presentation of BSE-derived infection. Our conclusion therefore is that, as the Southwood Working Party determined, taking all the available evidence together, the risk to man from BSE is remote. Nevertheless, advice given by them and this Committee has been aimed at reducing exposure of humans to the BSE agent. Long term this is achieved by the ruminant protein feed ban which is already showing evidence of success in eliminating BSE in the cattle population and preventing new infections of all ruminants via feed.

In the short term the compulsory notification, slaughter and complete

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\(^{2295}\) YB96/1.05/1.10

\(^{2296}\) The first report had been published in April 1992 – SEAC Interim Report on Research, IBD2 tab 13

\(^{2297}\) IBD2 tab 21 p. 9
destruction of clinically suspect BSE cases, together with the SBO ban (including the extension to include the distal ileum and thymus of calves under 6 months of age used for human consumption) is protecting consumers from any significant exposure.

We are also content that the bioassay of tissues from confirmed, affected BSE cattle realistically reflects the tissues in which the agent may be present in significant quantity (brain and spinal cord) and those in which it is not detected (muscle, milk, liver, kidney, heart, testis, ovary, semen, tonsil, spleen, gut lymphoid tissues and many others). We believe that these measures and others relating to biologicals prepared from bovine tissues, or used in their manufacture (another potential source of BSE infection for man and animals), are sufficient with current knowledge to satisfactorily protect human and animal health.

Although we do not know for certain the sources of FSE in domestic cats, all evidence (temporal and geographic occurrence of the disease, and agent strain typing) points to a feed source and probable origin from BSE rather than from scrapie. The initial cases of SE in all the captive wild ruminant species, except the scimitar-horned oryx, were exposed to the same infected feed as cattle. The origin of infection in the scimitar-horned oryx and subsequent cases in greater kudu and eland is not known. The wild FELIDAE affected by FSE have been exposed to raw, central nervous tissue from potentially BSE-affected/infected cattle carcasses. ‘Species jumping’ is not an appropriate term to use since all these species have been exposed, probably via feed, provided ‘artificially’ by man. Indeed without man’s interference BSE itself would never have occurred. In conclusion, therefore, 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.

5.280 The report was published in February 1995, under cover of a news release which stated that it:

...summarises what is now known about TSEs. The Report provides an insight into research both completed and underway.2299

5.281 It appears to have attracted no press coverage.

Discussion

5.282 One of the strangest features of the BSE story is the fact that nobody appears to have attached significance to the results of the NPU BSE into sheep experiment. The first point of significance was that BSE transmitted into negative line sheep, which were not susceptible to scrapie. This was one of a number of factors which threw doubt on Mr Wilesmith’s theory as to the nature of the agent.
5.283 Much more significant, however, was the fact that 0.5 gram of infective material had proved sufficient to transmit BSE across a species barrier by the oral route.

5.284 When the attack rate experiment demonstrated that 1 gram of infective material was sufficient to transmit BSE orally within the species, there was widespread surprise. The result led to an appreciation of the possible significance of:

i. Contamination of MBM designed for animal feed with SBO in the course of rendering, and

ii. Contamination of ruminant feed with monogastric feed containing such MBM in the feed mills.

5.285 Knowledge that 0.5 gram had sufficed for oral infection of a negative line sheep was available as early as November 1990. It is extremely unfortunate that this did not lead to an appreciation of the risks of cross-contamination at this stage.

5.286 It seems to us that had arrangements for coordination of all BSE research been put in place the significance of the NPU experiment would have been likely to be noted by those responsible for the coordination and appreciated by officials in MAFF and DH.

5.287 The joint news release after the Southwood Report had informed the public that the risk of transmission of BSE to humans appeared remote and that it was very unlikely that BSE would have any implications for human health. It had reported that the Working Party believed that risks as then perceived would not justify special labelling requirements for products containing either bovine brain or spleen.

5.288 By September 1994 much had occurred to alter the perception of risk. SEAC’s report recorded that it was possible that BSE was the source of infection of newly recognised SEs in:

(i) Gemsbok
(ii) Arabian oryx
(iii) Greater kudu
(iv) Eland
(v) Cat
(vi) Moufflon
(vii) Puma
(viii) Cheetah
(ix) Scimitar-horned oryx.

2300 IBD1 tab 3
5.289 FSE had been reported in 57 domestic cats by September 1994.

5.290 The report referred to measures that included the human and animal SBO bans with the words:

    Control measures are necessary for public health and animal health reasons, the former because the BSE agent may be a human pathogen . . . 2301

5.291 Some 36 pages later, there followed the passages on risk assessment set out above.

5.292 The careful reader might conclude that SEAC had assessed the risk of transmissibility to humans as significantly greater than had the Southwood Working Party, which had not thought that the risk justified labelling products containing spleen or brain, let alone banning them. SEAC described the risk as remote because of the reduction of that risk attributable to the control measures in place, which included the SBO ban.

5.293 SEAC did not, however, clearly spell out that their perception of risk differed from that of the Southwood Working Party. They stated 'our conclusion therefore is that, as the Southwood Working Party determined, taking all the available evidence together, the risk to man from BSE is remote'.2302 This might have deceived the less careful reader into thinking that nothing had changed.

5.294 We do not criticise SEAC for what was a detailed and careful analysis of the existing data. None the less, we think it a pity that their report did not spell out more clearly and simply the fact that perception of risk had changed since Southwood. Had they done so, their report might have attracted some attention and resulted in the public being better informed about risk.

Government pronouncements, media concerns and public reaction

Introduction

5.295 In this section we shall look at the reaction of the media, the Government and others in response to some of the events described earlier in this chapter. Occasionally we touch on developments in the incidence of CJD in farmers and teenagers during this period, which are not described in detail in this chapter but in vol. 8: Variant CJD. It has been necessary to mention these developments here to provide the context of the various pronouncements by the Government.

Transmission of BSE to primates

5.296 As described earlier, in February 1992 the experimental transmission of BSE to marmosets was communicated to MAFF and DH and discussed by SEAC, which

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2301 IBD2 tab 21 p. 36
2302 IBD2 tab 21 p. 72
concluded that ‘the results of the experiment were not surprising and had no implications for the safeguards already in place for human and animal health’.\textsuperscript{2303}

5.297 Mr Lowson noted in a minute to Mr Gummer that, after the MRC had sent the results to MAFF, the Secretary of the MRC, Dr Dai Rees, had suggested to Mr Meldrum that ‘as the result of this experiment was predictable but open to misinterpretation, it would be better not to make an announcement’. Mr Lowson advised the Minister that ‘Silence would however be open to even more misinterpretation, when the story emerged, and would not be in line with Ministers’ stated approach to releasing Tyrrell Committee advice’.\textsuperscript{2304}

5.298 Following SEAC’s conclusion on the implications of the experiment, MAFF published a news release on 4 March 1992, based on a written answer by David Maclean (Parliamentary Secretary, MAFF) to a Parliamentary Question:

It has been known for some time that, under experimental conditions, BSE can be transmitted to a range of species – mice, cattle, sheep, goats and pigs. In most cases, this has been accomplished only by direct inoculation of large doses of infectious material from cows affected with BSE, although mice have also succumbed after being fed with large quantities of infected cattle brain material.

As part of this programme of work designed to clarify the range of species susceptible to BSE, an experiment conducted by the Medical Research Council and MAFF has resulted in BSE being transmitted to a marmoset following inoculation of cattle brain material derived from a BSE affected cow into its brain and body cavity.

Although it was already known that marmosets were susceptible under similar artificial laboratory conditions, to other spongiform encephalopathies, the Spongiform Encephalopathy Advisory Committee, chaired by David Tyrrell, were immediately asked to advise on the implications of this experiment. The Committee concluded that the results of the experiment were not surprising and had no implications for the safeguards already in place for human and animal health.\textsuperscript{2305}

5.299 A Question and Answer brief was also prepared by Mr Lowson, which included the following:

1) Marmosets are primates – doesn’t that mean that BSE could affect man?

The experiment shows simply that under very artificial conditions (the inoculation of a large dose of heavily infected material direct into the brain of the animal) marmosets are susceptible – which is what would have been expected. Other experiments show that this artificial route of transmission is some 100,000 times more effective as a means of transmitting infection than the oral route. So far, BSE has been transmitted by the oral route only in mice, and even then as a result only of feeding them on about (three-quarters) of their body weight of the brain of BSE cases. Humans, and all animal species, are protected from exposure to the BSE agent by the specified

\textsuperscript{2303} YB92/3.04/6.1
\textsuperscript{2304} YB92/2.28/2.2
\textsuperscript{2305} YB92/3.04/6.1

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bovine offal ban – although in practice infection has so far been detected only in the brains of affected cattle.

2) Doesn’t this experiment show that there is a lot that we don’t know about the disease?

Quite the reverse: As the Tyrrell Committee advised, the result is not surprising. It is another piece of evidence about the similarity between BSE and other diseases like scrapie.\(^{2306}\)

**5.300** In October 1992, various newspaper articles raised concerns about the implications of the increased host range of BSE in light of the publication by the Press Association of results from various experiments conducted at the CVL on cattle, pigs, goats, sheep and marmosets. On Friday 16 October 1992, an article quoted Dr Gareth Roberts, a neuroanatomist from St Mary’s Hospital Medical School, London:

> The sort of scientific objection that BSE couldn’t pass to humans is fatally weakened . . . As primates, marmosets are close to us.\(^{2307}\)

**Discussion: release of the marmoset results**

**5.301** The release of the result of the marmoset experiment was, indeed, in accordance with the policy of openness inaugurated by Mr Gummer. Mr Lowson did his best, however, to ensure that the information did not give rise to public alarm or false conclusions as to the implications of the transmission achieved.

**5.302** The experiment had originally been designed to give guidance on the question of whether BSE might be transmissible to humans. In the event the experiment does not appear to have been of much value.

**5.303** The statement in the draft Q&A brief that BSE had been transmitted by the oral route only in mice, and even then by feeding them with three-quarters of their body weight, indicates that Mr Lowson was unaware of the NPU BSE into sheep experiment.

**SEs in other species**

**5.304** As reported earlier in this chapter, during 1991 and 1992 FSE was identified in a puma and a cheetah. Kudus in London Zoo had also contracted SEs.

**5.305** An article in the *Independent* on 29 June 1992 discussed the deaths of the cheetah and puma, and the likely cause of infection.\(^{2308}\) It was recorded that Mr Meldrum said that ‘in all probability’ the agent for the disease would have been in the puma’s food, and that experiments showed that the causative agent of BSE had ‘not been identified outside the brains of affected cows’. He said that the removal of SBO from the food chain removed any risk to humans from eating beef. The zoo’s director, Dr Michael Bramble, said the animals were not fed heads, only ‘split carcasses from the neck downwards’.

\(^{2306}\) YB92/2.28/2.6
\(^{2307}\) YB92/10.16/1.1
\(^{2308}\) YB92/6.28/8.1
5.306 The article concluded with further comment from Mr Meldrum, saying that he was not surprised that the puma and the cheetah had gone down with the disease ‘because we know that cats are susceptible’. He was reported to have said:

This does not change my overall view of the epidemiology of the encephalopathies. It has no bearing whatsoever on BSE and has no implications on the remote threat to man which is controlled and eliminated by the measures discussed.

5.307 In relation to the deaths of the three kudus, Mr Soames said in written evidence that he had sought advice from officials on the relevance of the findings. He said that he was told that there was no relevance to human health, and that there was no need to ‘review the public message about human health’. 2309

Television documentaries and other programmes on BSE during 1992

5.308 In 1992 several television documentaries on BSE were made. A fictional drama called ‘Natural Lies’ was also broadcast on television. The latter resulted in correspondence between MAFF and the BBC’s Managing Director, Will Wyatt, over proposed content and sourcing. The star character of this thriller serial ‘fear(ed) he may have found the first link in a dangerous cover-up of food industry double-dealings’. 2310 MAFF viewed the content of ‘Natural Lies’ as a potential worry as it concerned BSE and drew on advice from both Professor Lacey and Dr Grant. Mr Derek Andrews put forward to the BBC the view that ‘you might have also considered taking advice for the series from recognised authorities in the field of BSE research’. 2311

5.309 On 1 June 1992, Dr David Clark MP (Opposition spokesperson for food and agriculture) issued a press release entitled ‘630 more “mad cows” each week in UK’. 2312 This stated that the incidence of ‘mad cow’ disease had continued to rise that year with the total number of cases amounting to more than 55,300. Dr Clark was quoted as saying:

In the pre-election period, the government was trying to con us that the disease would start declining soon. Unfortunately, the latest figures fail to support their case.

5.310 The press release coincided with the broadcast of ‘Natural Lies’, and the two events caused further media interest. 2313 On 2 June 1992, The Times, Financial Times, Daily Mirror and Today all reported that there were 631 new cases of BSE a week. The Financial Times reported that ‘Mr David Clark . . . is to call for an independent report into “mad cow disease”’. 2314 In response MAFF sought to reassure shoppers in an article in the Evening Standard entitled ‘Call for calm over new mad cow alert’. 2315 This reported that an unspecified Ministry spokesman had
said that ‘Beef is perfectly safe to eat in this country. It is safe for adults, for children and even those in hospital.’

5.311 A BBC documentary on ‘Public Eye’ called ‘Mad Cow Contagion’, screened on 16 October 1992, focused on the rise in number of cows with BSE to 70,000. The documentary also addressed the possibility of maternal transmission between cows and their calves. It was thought that maternal transmission may have occurred in two cases, and there was suspicion that antelope at London Zoo were also passing on ‘a form of BSE’ to their young. Mr Meldrum was questioned on both issues. With regard to maternal transmission, Mr Meldrum said: ‘There is no evidence of maternal transmission occurring in the UK with the exception of these two possible cases. And that’s out of 70,000 so certainly maternal transmission is not a major problem.’ Dr Gareth Roberts commented, ‘I think the fact that it was predicted that it would never occur and now it appears to have occurred means you need to change your ideas.’

5.312 Dr Harash Narang, a clinical microbiologist\textsuperscript{2316}, also appeared on the documentary. He proposed that BSE was caused by a type of viral infection, and that he was developing a live test which would reveal sick animals.

5.313 Mr Lowson circulated a minute entitled, ‘BSE: “Public Eye” 16 October: Line to take’.\textsuperscript{2317} Simon Dugdale, MAFF Chief Information Officer, added to the minute with the following paragraph on ‘risk to humans’:

No reason to believe that BSE would harm humans under natural conditions. Conclusion endorsed by CMO. Southwood Working Party assessed the risk as remote. There is no evidence of any relationship between scrapie in sheep and any human disease, stretching back over centuries, and BSE infection has been passed to other species only as a result of highly artificial laboratory procedures. But the Government has acted throughout on the assumption that there might be a risk, and has therefore done everything possible to remove the BSE agent from the food chain, notably by slaughtering and completely destroying all suspect cases and by removing the tissues from clinically healthy cattle which might harbour infection from any food chain.\textsuperscript{2318}

Public statements by Dr Calman following reports of CJD in farmers and teenagers

First farmer and Dr Calman’s statement of 11 March 1993

5.314 On 4 August 1992, Dr Wight minuted Mrs Lynda Lockyer (Head of the Administrative Branch, Environmental Health and Food Safety Division, DH) and Dr Roger Skinner (Principal Medical Officer, DH\textsuperscript{2319}) informing them that Dr Robert Will from the CJD Surveillance Unit (CJDSU) had, confidentially, reported a case of probable CJD in a farmer who had had a dairy cow with BSE on his farm.\textsuperscript{2320} She said that:

\textsuperscript{2316} With the Public Health Laboratory Service from 1977 to 1994
\textsuperscript{2317} YB92/10.16/5.1
\textsuperscript{2318} YB92/10.16/4.2
\textsuperscript{2319} November 1989 onwards
\textsuperscript{2320} YB92/8.04/3.1
The current concern is that I understand the staff looking after him are aware of his probable diagnosis and of the fact that he had a cow with BSE, and the case could become public.

5.315 She added that the diagnosis had not been confirmed and that there was no direct evidence to link BSE and CJD. She said MAFF had not been made aware of the matter due to ‘sensitivity and uncertainties’ surrounding the case and because Dr Will would be put under immediate pressure to provide more information to MAFF Ministers. In a handwritten note on the minute Mrs Lockyer advised Mr Murray that MAFF should be alerted to the case.

5.316 On 13 August 1992, Dr Wight minuted the CMO informing him of the case of probable CJD in a 60-year-old farmer.2321 She suggested that DH take the following line:

We are aware of the development of probable CJD in a farmer, though the diagnosis has not been confirmed. To date, there is no scientific evidence to link BSE with the human illness CJD and the information available in this case does not change the situation.

5.317 Dr Wight also advised that DH and MAFF Ministers and the DH press office should be alerted and suggested that Sir Kenneth Calman speak with the CVO personally ‘in view of the sensitivity and the need for confidentiality’.2322

5.318 On 21 August 1992, Mr Thomas Murray minuted Mrs Virginia Bottomley (Secretary of State for Health) briefing her about the background of the case and the official line to take in case of media interest.2323 Mr Murray recommended that no action was required pending investigation by the CJDSU and that he had spoken to a MAFF official to ensure that their Ministers were suitably briefed. He also stated that the facts would be presented to SEAC, who would ‘advise on the implications for Government policy’. On the same day, Mr John Maslin (Animal Health Division) minuted Mr Soames (Parliamentary Under-Secretary, MAFF) stating that DH had informed MAFF about the case and that any queries were to be referred to DH.2324

5.319 SEAC discussed the farmer’s case at their 13th meeting on 15 October 1992.2325 Dr Will, presenting the case, noted that the farmer’s cow was confirmed as having BSE in 1989 and that the farmer had developed CJD two years later. Dr Will advised SEAC that he intended to publish a report of the study that would probably conclude that ‘there was no evidence that this was not a chance occurrence of normal disease’. Dr Will also reported that his study at the CJDSU had failed to reveal a correlation between occupational backgrounds and CJD to date.2326

5.320 On 22 October 1992, Mr Murray again minuted Mrs Bottomley with an update on the case of the farmer.2327 He informed her that he had since died and the case had now been confirmed through pathology. He also noted that Dr Will was going to report the case in the medical press in line with normal practice and that

2321 YB92/8.13/2.1–2.2
2322 YB92/8.13/2.2
2323 YB92/8.02/2.1, copied to Miss Burnet, Ms Wright, Dr Nicholas PS/CMO, Dr Metters, Mr Heppell, Dr Steadman, Dr Skinner, Ms Lockyer, Mr Cunningham, Dr Wight, Mr Wilson ID and Mr Lowson of MAFF
2324 YB92/8.21/1.1
2325 YB92/10.15/2.1–2.8
2326 YB92/10.15/2.4
2327 YB92/10.22/5.1–5.2
the line to be taken with the media had changed to reflect the new developments. The new revised line to take was:

We are aware of a confirmed case of CJD in a farmer, who has had a cow with BSE. To date, there is no scientific evidence to link BSE with the human illness CJD and the Tyrrell Committee have advised that the information available in this case does not change this situation.

5.321 On 15 February 1993, Mr Kevin Taylor minuted Mr Lowson and the SEAC secretariat after reading the article which Dr Will was intending to publish in the *Lancet.* He concluded that ‘I don’t think we should be too upset if it isn’t published’. He did, however, suggest three amendments if still possible:

i. The CJD case should be dated, as the BSE case already is, to indicate the time interval which separated the two cases.

ii. …The sentence ‘He had drunk pooled milk from the herd which included that from the affected animal’ will mislead the uninformed. It needs to be made clear that milk from a cow, which is suspected to be affected with BSE, cannot be drunk or added to the bulk milk produced by the rest of the herd.

iii. …The phrase ‘and a casual link with BSE is at most conjectural’ should be deleted so that the first part of the statement would stand as a clear statement that the CJD case was likely to have been a chance phenomenon.

5.322 None of these amendments appeared in the published version of the letter.

5.323 On 6 March 1993, the *Lancet* published the article by Dr Will and others under the title ‘Creutzfeldt-Jakob Disease in an Individual Occupationally Exposed to BSE’:

This is the first report of CJD in an individual with direct occupational contact with a case of BSE and raises the possibility of a causal link. About 120 000 individuals work in dairy farming in England and Wales and over one-third of farms have had at least one case of BSE. The national incidence of CJD is about 0.5 cases per million per year and a crude calculation suggests that in the 2 ½ years since the start of our survey, we would have expected about 0.05 cases in dairy farmers with a BSE-affected herd. This calculation takes no account of other groups with increased exposure to affected animals and we have found no case of CJD in other potentially ‘at-risk’ groups, such as abattoir workers or veterinarians. We have identified individuals [with CJD] with occupations (eg, vicar, art teacher) that are statistically less likely to have occurred by chance than potentially less ‘at-risk’ occupations.

The course of symptoms and signs in our case, the investigations (including electroencephalography) and the necropsy findings are consistent with previous experience in CJD. Risk factors for CJD, including iatrogenic transmission and genetic predisposition, have been largely excluded by the history and gene analysis. The Southwood Committee recommended surveillance of specific occupational groups because of the risk of direct inoculation of bovine tissue. The history suggests no such occurrence in our
case and the only possible direct route of cross-contamination was by drinking milk. Milk does not contain detectable titres of infectivity, even from animals clinically affected with natural diseases and epidemiological evidence (eg, the absence of vertical transmission in kuru after breastfeeding) largely precludes milk as a route of transmission in spongiform encephalopathies.

CJD in our case is most likely to have been a chance finding and a causal link with BSE is at most conjectural. 2329

5.324 The letter became the subject of much media interest. It was reported in *The Times* in an article entitled ‘Farmer in BSE case dies of dementia’ 2330 and discussed in an article, ‘Eating People is Wrong’. 2331 *Today* newspaper published an article entitled ‘Mad cow disease and the dairy farmer: Is this the link the world dreads?’ and quoted ‘one of Britain’s leading neuro-pathologists’ (who was unnamed) as saying the farmer’s death was a ‘disquieting development’. 2332 The *Daily Express* published an article entitled ‘Mad cow link to death of farmer’ 2333, and the *Daily Mail* published an article entitled ‘New “mad cow” fears after BSE farmer dies of brain illness’. 2334

5.325 On 9 March 1993, an article in the *Daily Telegraph* entitled ‘Farmer dies of rare brain disease after BSE hits herd’ quoted Dr Will as saying that it had not been possible fully to assess whether the farmer had inhaled contaminated dust from the suspect cattle food or had been infected through cuts or grazes. 2335 He was also reported as saying, ‘This case could just be a coincidence. We felt it was right to be open and report what we had found.’ In the same article Mr Kevin Taylor (Assistant CVO) was reported to have said: ‘I don’t think that a link between this case and BSE is even conjectural.’ He also rejected fears that the farmer may have contracted the illness from milk.

5.326 On 10 March 1993, the BBC Radio 2 presenter Jimmy Young interviewed Professor Richard Lacey, who commented:

The good news is that this farmer, I think, got it too soon. If BSE produces this disease in people it will take, perhaps, another five or ten years. So I think this is a one off coincidence and I don’t think this farmer got his disease CJD, from BSE. But nevertheless the underlying worries remain and I think it’s reasonable that this issue should be discussed. 2336

5.327 On 10 March 1993, a briefing was prepared for the Prime Minister and the Lord President by Mr T Hepburn of HEF(A), 2337 with clearance from DH officials, regarding the issues surrounding this case and the line to be taken by the Government. 2338 The briefing repeated the line to take which had been suggested in previous minutes relating to the death of the farmer:

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2329 Will, et al., the *Lancet*, 341, 642
2330 YB93/3.09/2.1
2331 YB93/3.11/5.1
2332 YB93/3.10/5.1
2333 YB93/3.10/4.1
2334 YB93/3.10/6.1
2335 YB93/3.09/1.1
2336 YB93/3.10/2.1
2337 Health Aspects of the Environment and Food Administrative Division
2338 YB93/3.10/3.1
The Government are aware of a confirmed case of CJD in a farmer, who had a cow with BSE. To date, there is no scientific evidence to link BSE with the human illness CJD and the Tyrrell Committee have advised that the information available in this case does not change this situation.2339

5.328 On 11 March, Mr David Naish, President of the National Farmers Union (NFU) from 1991 to 1998, called for a statement from the CMO.2340

5.329 Sir Kenneth Calman told us that he had met Mr Gummer to discuss a possible press release on the farmer’s death, given the press speculation:

In view of the fact that this event resulted in intense media interest, I met with Mr Gummer to discuss the release of a Press statement to allay public fears . . . We both agreed that it was necessary to reassure the public that previous advice had been reconsidered and remained unaltered . . .2341

5.330 Mr Gummer also referred to this meeting in his statement to the Inquiry:

I subsequently met with the CMO, Dr Kenneth Calman, to discuss these reports. We agreed that given the press speculation it was important that the CMO should issue a press release making it plain that the Tyrrell committee had considered this case, which had been reported to the National CJD Surveillance Unit in August 1992, and had advised that it did not alter the advice that had previously been given.2342

5.331 On 11 March 1993, Dr Calman issued a public statement on CJD which repeated the assurance about the safety of beef given by his predecessor, Sir Donald Acheson, on 16 May 1990.2343 Dr Metters was involved in discussing drafts of this statement and agreed with the wording selected by the CMO.2344 The statement read:

Following the death of a farmer from CJD I am aware of media reports that have speculated about a link between this rare human condition and BSE.

I wish to emphasise that there is no scientific evidence of a causal link between BSE in cattle and CJD in humans. The Tyrrell Committee have considered the details of this case and have advised that this does not alter the advice that has previously been given.

That advice issued on 16 May 1990 by my predecessor, Sir Donald Acheson, that beef can be eaten safely by everyone, both adults and children, including patients in hospital, remains valid.

The Department continues to monitor developments in this area closely and will carefully consider all new evidence as it emerges. I am confident that all necessary action has been taken to safeguard public health.

NOTES FOR EDITORS

2339 YB93/3.10/3.2
2340 YB93/3.12/5.1
2341 S179 Calman para. 54
2342 S311 Gummer para. 275
2343 YB93/3.11/1.1
2344 S116 Metters para. 106
Cases of Creutzfeldt-Jakob Disease (CJD) are notified by Consultants to Dr R G Will of Edinburgh. Dr Will is running a long-term study of CJD funded by the Department of Health: this should allow detection of any spread of infection to humans, although this possibility is considered remote. In June 1992 Dr Will submitted a report to Parliament on the results of his study into the incidence of CJD in the UK, the conclusion of which is as follows:

Descriptive epidemiological data is now available on CJD in the UK between 1980 and April 1992. There has been no significant change in the incidence of CJD, the clinical features of CJD, or the graphical distribution of cases. Analysis of the occupational distribution of cases in the first two years of the prospective study, including a case-control study, shows no significant increase in the risk of CJD in relation to specific occupations. There is currently no evidence of any change in the epidemiological characteristics of CJD following the advent of Bovine Spongiform Encephalopathy (BSE).

5.332 After the release of Dr Calman’s statement, on 13 March 1993, the Daily Mirror reported:

A top scientific expert yesterday slapped down Government claims over ‘mad cow’ disease.

Chief Medical Officer Dr Kenneth Calman had insisted BSE could not cause a related brain disease in humans.

But Professor Richard Lacey said he was wrong. Evidence suggested BSE was highly contagious and could infect different species, including man.

The warning came after it was revealed that farmer Peter Warhurst, 61 – whose cattle had been infected by BSE – had died of the brain disease Creutzfeldt-Jakob (CJD).

5.333 On 23 March 1993, Mr Robert Lowson wrote a minute to Miss Houghton (Assistant Private Secretary to the Minister) in preparation for a ‘Minister’s Meeting to Review Progress on BSE’ the following day. Mr Lowson suggested points that might be covered, including the following:

(v) liaison with DOH. It was not easy to get the CMO to make a statement in response to recent press speculation about a possible link between BSE and human disease, and it might be worth considering how to ensure that in future they move more quickly.

5.334 In his oral evidence to the Inquiry, Sir Kenneth Calman defined his understanding of the word ‘safe’ as follows:

I think this is an issue which is undoubtedly central to this Inquiry, the meaning of the word ‘safe’. If you look at ‘safe’ in if you like ordinary speech, and this is the way which perhaps is the best way to explain it, if we
talk about a ‘safe driver’ we do not mean that that driver will never have an accident. If you talk about a ‘safe pair of hands’ you do not mean to say that that person will not have a problem. In ordinary usage ‘safe’ does not necessarily mean no risk. Indeed we quite often use words to qualify ‘safe’ like ‘completely safe’ or ‘absolutely safe’ or ‘reasonably safe’, so that ‘safe’ is a word not always associated with zero risk. In some of the reading around this, and I have not tabled it for the Inquiry, there is an Institute of Standards documentation which was published really beginning in the 1980s, moving through to recent editions which describe ‘safe’ as free from unacceptable risk or harm. So that in ordinary usage ‘safe’ does not mean no risk. And of course in relation to this particular Inquiry many people recognised that ‘safe’ did not mean no risk and actually stopped eating beef for example. So, in ordinary parlance I think ‘safe’ certainly to me did not mean no risk.  

5.335 Sir Kenneth was asked:

. . . whether, as far as the public were concerned, the message they were getting is you cannot catch BSE from beef, period. Not: we are making quite sure that the bits which might possibly infect you are being removed.

5.336 He replied:

I think it – for me it was the latter, because that is why we had taken the action. Therefore it was implicit if not explicit that because of the possibility that beef might transmit the disease to humans, it was important to take action, feedstuffs, SBO ban and all the other things that have been introduced, that is why we did it. But having done that, we think that beef is safe, safe in these terms, in those terms not necessarily meaning zero risk.  

Discussion of Dr Calman’s statement of 11 March 1993

5.337 We have already criticised the terms of the public statement made by Sir Donald Acheson after the discovery of a case of SE in a cat (see Chapter 4). We consider that both the circumstances and the terms in which Dr Calman repeated that public statement in March 1993 leave him open to a similar criticism. The essence of that criticism is that the unqualified statement that beef could be eaten safely was liable to be interpreted by the public as reassurance that BSE could not be transmitted to humans.

5.338 We consider that this misinterpretation was particularly likely having regard to the fact that Dr Calman’s statement was made in the context of concern as to the possible transmission of BSE to a farmer. On 13 March 1993, the Daily Mirror sought to summarise Dr Calman’s statement as follows:

Chief Medical Officer Dr Kenneth Calman had insisted BSE could not cause a related brain disease in humans.  

5.339 This demonstrates that Dr Calman’s statement was indeed misinterpreted in the manner that we have suggested was likely.
Sir Kenneth Calman sought to meet our concern about the terms of his public statement. He said:

31. As the Inquiry will be aware, the press statement was specifically prepared following intense media speculation surrounding the first reported case of CJD in a dairy farmer published in the *Lancet* on 6 March 1993.

32. At the time that this statement was issued, in 1993, BSE was a known entity and had been with us for a number of years. Successive expert advisory committees had been established by Government to advise on all aspects of transmissible Spongiform Encephalopathies relevant to both animal and human health, with emphasis in the areas of surveillance, research and operational issues. In all of these discussions and reports produced, the possible transmission to humans was considered, hence the action taken to remove any known possible transmissible material from the human food chain.

33. As a result of these committees’ detailed considerations of developments in the spread of BSE and research reviews, recommendations were made to Government which were adopted and published within a short period. This process commenced at the time of the establishment of the Southwood Working Party in May 1988, who published their findings in February 1989. The Inquiry will be aware of the conclusions reached by the Southwood Working Party at the outset, not least the acknowledgement by them that the spread of BSE had potential implications for human health.

34. As a result of those initial (and indeed subsequent) recommendations, extensive legislation was introduced through Government which sought to reduce (and ultimately stem) the spread of infection between cattle and reduce the acknowledged risk of any remote possibility that BSE could be transmitted to humans.

35. Both the Tyrrell Committee, and since 1990 SEAC continued that process based upon the same premise. As a result, by 1993, extensive legislation had been implemented based upon a series of recommendations by the various Government expert advisory committees, with the ultimate purpose of providing adequate safeguards to protect human and animal health and designed ultimately to protect against an acknowledged remote possibility of transmissibility.

36. It is only against this background that my 11 March 1993 statement can be viewed.

37. As is evident from the background set out above, the possibility of transmissibility to humans was never discounted by anyone, not least the Government’s expert advisory committees nor myself nor the Department of Health. There were a number of specific events which meant that the possibility of transmissibility to humans could not be discounted. Evidence was given by me at the Phase 1 oral hearings on this issue and the impact of

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2351 S179A Calman
2352 YB93/3.06/1.1
2353 IBD1 tab 2
2354 YB93/3.11/1.1
these specified events influencing my thoughts on the remote possibility of transmissibility.

38. The press statement I made sought simply to set out my advice as Chief Medical Officer as to the position at the time, taking into consideration all the measures presently in place and having consulted with the Government’s expert advisory committee SEAC. I emphasised in that press statement there was no scientific evidence of a causal link between BSE in cattle and CJD in humans. I confirmed that SEAC had considered the case in question and had advised that this did not alter the advice that had previously been given. I went on to state that the advice issued on 16 May 1990 by the previous Chief Medical Officer – that beef could be eaten safely by everyone, both adults and children, including patients in hospital, remains valid. The Inquiry will recall, however, that I went on to say that the Department continued to monitor developments in this area closely and would consider all new evidence as it emerged. I added that I was confident that all necessary action had been taken to safeguard public health.

5.341 It seems to us that the points made by Sir Kenneth serve merely to underline the reasons for our concern. Since the Report of the Southwood Working Party a number of events had occurred which, as Sir Kenneth recognises in his statement, ‘meant that the possibility of transmissibility to humans could not be discounted’.

5.342 When Sir Kenneth gave evidence in Phase 1 of the Inquiry he remarked that the transmission of BSE to zoo animals, to a pig and to cats:

... no more than strengthened my view that the potential for BSE to move from cows to humans was certainly real.

5.343 In his first statement to the Inquiry Sir Kenneth had also referred to experimental transmission to a marmoset as:

Another bit of evidence, albeit experimental, which simply confirmed the fact that transmission was possible.

5.344 Dr Calman’s contemporary appreciation of the risk that BSE might be transmissible to humans was sound. The range of species to which BSE transmitted, both experimentally and, more significantly, naturally through oral ingestion, was rightly seen by Dr Calman and by other scientists who were aware of these matters – including SEAC – as events which increased the likelihood that BSE might be transmissible to humans. This, however, was never made clear to the public. The repetition of the same message – ‘it is safe to eat beef’ – as a response to what were legitimate public concerns was misleading.

5.345 On 23 March, Mr Lowson commented in a minute for Mr Gummer’s attention:
It was not easy to get the CMO to make a statement in response to recent press speculation about a possible link between BSE and human disease.2360

5.346 The reason why MAFF wished the CMO to make a statement was, no doubt, because of the damage that public concern about BSE might cause to the beef industry. The evidence suggests that Dr Calman had reservations about complying with MAFF’s request for assistance. Having decided to comply with that request and make a public statement, he should have taken great care to ensure that his statement fairly reflected his appraisal of the risk posed by BSE.

5.347 Dr Calman’s statement (see paragraph 5.331) referred first of all to speculation about the possibility of a link between BSE and CJD following the death of a farmer from BSE. After emphasising that there was no scientific evidence of a link between BSE in cattle and CJD in humans, he went on to say that the case of the farmer did not alter the advice previously given, namely that ‘beef can be eaten safely by everyone . . . including patients in hospital’.2361 Any reader could naturally infer from his statement that it was safe to eat beef because there was no link between BSE and CJD – ie, that BSE was not transmissible to humans. The reader would not be likely to deduce that the statement that it was safe to eat beef was premised on the assumption that the tissues which were potentially most infective had been removed from the food chain. The sentence ‘I am confident that all necessary action has been taken to safeguard public health’2362 is not adequate to convey that fact.

5.348 Sir Kenneth Calman has emphasised to us that he was indeed confident that the SBO ban was being effectively implemented. This is no answer to our concern. He should have made it plain that it was on this basis that he was prepared to advise that it was safe to eat beef.

5.349 We bear well in mind the difficulties facing those called upon to make statements about BSE and the natural anxiety not to alarm the public. It was, however, important that a public statement by the CMO should deal with the risk posed by BSE clearly and accurately. Dr Calman erred in not painting the full picture and, in consequence, gave a picture that was misleading. In so doing he fell short of the standard reasonably to be expected of the CMO.

DH response to the second report of the CJDSU, and the second case of CJD in a farmer

5.350 The CJD Surveillance Unit (CJDSU) published its second report in July 1993 referring to the death from CJD of the first dairy farmer, whose herd had included a cow affected by BSE. This is discussed in vol. 8: Variant CJD. Around the same time as the report’s publication, it became known that a second farmer had CJD.

5.351 A minute from Dr Wight on 12 July 1993 to Baroness Cumberlege, DH Parliamentary Under-Secretary, and the CMO2363 said:

DH were informed last week by Dr Will of the CJD Surveillance Unit in Edinburgh of a case of CJD (confirmed by brain biopsy) in a 64 year old

2360 YB93/3.23/3.1
2361 YB93/3.11/1.1
2362 Ibid.
2363 The minute was also copied to Dr Metters and Mr Lister, among others
A dairy farmer, who is presently hospitalised near his home in the West Country. The farmer is thought to have had at least two cases of BSE in his herd, which were diagnosed in 1992. The farmer is reported to have assisted in calving and to have drunk the milk from his herd. The history does not suggest that this is anything other than a sporadic case of CJD.

... We are taking expert advice with respect to this further case, and we will keep you informed. At the moment, the existence of this case is confidential. We therefore suggest the following line to take in case of enquiries:

‘DH is aware of a second case of CJD in a dairy farmer who has had BSE in his herd. We cannot comment on the details of the case, but we know of nothing to suggest this is anything other than a sporadic case of CJD. The Department continues to monitor the incidence of CJD in humans.’

5.352 On 14 July, Mr Kevin Taylor minuted the Minister, advising her of the case. He said:

We remain of the view that there is no evidence of transmission of BSE to man. It is pertinent that the clinical symptoms of CJD in this farmer became evident in May this year and the first evidence of BSE was apparent only 12 months before. In view of the long incubation period of this group of diseases, there is no evidence to suggest transmission from his cattle.

We propose to take no further action in this case unless details of the CJD case, and the BSE situation on the farm, became public knowledge. If they did we would need to reconsider the situation.

5.353 Mr Taylor sent a further minute to the Minister, with copies to Mr Jack, Mr Soames, Mr Packer, Mr Capstick, Mr Meldrum, Mr Eddy, Mr Lister and Dr Wight of DH (among others). He said that neither Dr Will nor the CJDSU intended to disclose the existence of the case or make any comment on it unless it attracted media attention. Information on the case would be included in the third annual CJDSU report, which would not be published for a year.

5.354 The minute included a briefing for Ministers based on the CJDSU’s second annual report and noted:

... current information does not suggest that occupation is linked to an increased risk of developing CJD, and this includes occupations which might involve an increased exposure to the BSE agent.

5.355 SEAC held a meeting on 20 July 1993, and Dr Will reported on the case of the dairy farmer. A fax from Professor Peter Smith (epidemiologist) was read; he had concluded that ‘the observation of 2 cases in workers in dairy farms with
BSE-infected herds is disquieting, but the evidence is insufficient at this stage to draw any definite conclusions’. 2369

5.356 The conclusions of SEAC were recorded as:

– there was no evidence that inoculation of BSE tissues from affected animals had occurred in this case;

– the fact that the illness in the cattle and the patient were incubating together indicated that it was very unlikely that there was a connection between the two;

– no conclusions could be drawn from the available statistical information.

It was agreed that:

– DH would draw up a statement on the basis of these conclusions. This would be used by DH in response to media enquiries about the case.

– transmission studies should go ahead on the two cases of CJD in dairy farmers. 2370

5.357 The statement by DH said:

The Government’s expert advisers have considered this case and have agreed that there are no features that give cause for undue concern. The symptoms of CJD in this case were entirely consistent with the development of the sporadic form of CJD, and there was no evidence that the patient had been exposed to animals associated with BSE, or to their products, any more than many other farm workers involved in animal husbandry. Since the illness of the cows and the patient occurred within months of each other, the animals and the patient had presumably incubated disease in parallel for some years. It is most unlikely therefore that there is any direct link between the cases of BSE and the occurrence of disease in the patient.

Although CJD is a rare disease, and the total numbers of cases in the UK remain low, two cases might occur in dairy farmers by chance. It is therefore not possible to reach any conclusions about a connection between BSE and CJD as a result of these two CJD cases.

However, the Government’s expert advisers have emphasised again the importance of continuing to monitor all cases of CJD in the UK particularly with a view to establishing any link through occupation or in any other way.

This case does not suggest that there is any need to revise the measures already taken to safeguard the public health against occupational and any other possible route of exposure to the BSE agent. 2371

5.358 The farmer died in early August, and an article then appeared in the Daily Mail on 12 August 1993 entitled ‘‘Mad cow’’ farmer dies’. It noted that the CJDSU
had concluded that the second farmer’s death was a ‘chance occurrence’. A DH spokesman (unnamed) was quoted as saying that the Government’s expert advisers had considered the case and ‘agreed that there are no features that give cause for undue concern’. The DH spokesman also stated:

There was no evidence that the patient had been exposed to animals associated with BSE or to their products any more than many other farm workers involved in animal husbandry.

The animals and the patient have presumably incubated the disease in parallel for some years.

It is most unlikely therefore that there is any direct link between the case of BSE and the occurrence of disease in the patient.

Although CJD is a rare disease, and the total number of cases in the UK remains low, two cases might occur in dairy farmers by chance. It is therefore not possible to reach any conclusions about a connection between BSE and CJD as a result of these two CJD cases.2372

5.359 The *Today* newspaper also published an article on 12 August titled ‘Mad Cow fear as second farmer dies’, repeating the statement from the Government spokesperson.2373

5.360 In a minute advising DH of the press attention, Mr Lister provided an additional Question and Answer brief to DH officials to answer media or public queries about the case. Question 2 referred to the conclusions of the CJDSU:

Isn’t it too much of a coincidence that two dairy farmers with BSE in their herds died from CJD?

The symptoms of CJD in this second case are entirely consistent with the development of the sporadic form of CJD. The occurrence of CJD in specific occupational groups with a theoretically increased risk from exposure to the BSE agent (eg farmers, vets, abattoir workers) is being studied by the National CJD Surveillance Unit in Edinburgh, set up on the recommendation of the Southwood Committee. The Unit’s second annual report, presented to Parliament in July 1993, states that ‘current information does not suggest that occupation is linked to an increased risk of developing CJD and this includes occupations which might involve exposure to the agent of BSE’. There is nothing about this latest case to justify changing that view.2374

5.361 The case study of the second farmer was published in the *Lancet* in September 1993. SEAC reconsidered the case on 7 October 1993 and agreed that if a third case of CJD in a farmer appeared, an immediate full Committee meeting would be required.2375
Dr Calman’s statement on CJD in a teenager

5.362 On 13 January 1994, Today newspaper featured a headline article entitled ‘Mad Cow Disease: The Human Link?’ 2376 This reported that ‘a previously fit and healthy teenage girl’ had contracted a fatal illness that could provide the link between humans and mad cow disease. The unnamed girl was Victoria Rimmer, a 16-year-old suspected of having CJD.

5.363 On the same day, Mr Roy Cunningham (Branch Head, HEF (A), DH2377) sent to the Parliamentary Branch of DH, a paper entitled ‘Briefing for No.10: “Today” article about BSE’. 2378 In the covering letter Mr Cunningham stated that the briefing incorporated suggestions from MAFF. A copy of the article from Today newspaper was attached and a background note explained that a 16-year-old girl was alleged to be dying from CJD; her mother had been reported as speculating about a possible link between her illness and eating hamburgers. He added that this was ‘likely to fuel speculation about a connection between BSE, the disease in cattle, and CJD, a Spongiform Encephalopathy in humans’. 2379 The briefing gave the following bullet points:

No link between CJD and Bovine Spongiform Encephalopathy (BSE) has been shown

Each case of CJD is monitored by the CJD Surveillance Unit in Edinburgh which is funded by DH and the Scottish Office. The Government is advised about BSE and other Encephalopathies by an expert committee which publishes reports regularly

The incidence of BSE in cattle is beginning to decrease. The number of suspect cases in the last three months of 1993 shows a 15% fall for the same period in 1992. 2380

5.364 On 25 January, Today newspaper published another article on Victoria (Vicky) Rimmer, entitled, ‘Why is my girl dying?’ The article said:

... Today, at 16, Victoria Rimmer is dying of a cruel disease that has made an old woman of her...

And her despairing mother, helplessly looking on, believes that the sickness slowly killing her was caused by eating meat infected with ‘mad cow disease’.

... Yet even when doctors at Liverpool’s Walton Hospital decided Vicky had CJD, the verdict was kept secret. Staff were ordered not to discuss it.

2376 YB94/1.13/4.1–4.2
2377 Health Aspects of the Environment and Food Division, 1991–95
2378 YB94/1.13/2.1–2.5
2379 YB94/1.13/2.3
2380 YB94/1.13/2.2
5.365 The article noted that Vicky Rimmer’s grandmother believed Vicky contracted the disease through eating beefburgers and also reported an opinion on the case by Dr Stephen Dealler, a consultant microbiologist:

It is an inescapable conclusion that Bovine Spongiform Encephalitis has got into our food chain . . . I suspect there will be other cases involving young people.

We may find that a new form of CJD is developing out of the cattle disease – with slightly revised symptoms but with the same fatal effect.\textsuperscript{2381}

5.366 The \textit{Daily Mail} and the \textit{Daily Mirror} also reported on the case, with articles entitled respectively ‘Mad Cow meal destroyed my daughter’s life’ and ‘Give me back my life’.\textsuperscript{2382}

5.367 On 25 January, Baroness Cumberlege (Parliamentary Under-Secretary, Lords) wrote to the editors of the \textit{Daily Mail}, the \textit{Daily Mirror} and \textit{Today} newspapers and said:

I should be grateful if you would give as much prominence to this letter as you gave to reports in today’s edition of your newspaper of a teenage girl said to be suffering from Creutzfeldt-Jakob disease (CJD).

CJD is, as your story makes clear, a dreadful disease. I can understand and sympathise with the distress of the relatives of anyone who may be suffering from it. Apart from anything else, it is almost impossible to diagnose CJD except after an autopsy on the brain. So relatives of possible sufferers have the additional distress of not knowing whether the patient is suffering from the disease.

While I understand why you wish to report something which you may believe is evidence of a new and horrible risk to health, I do wish you had given much more prominence to the scientific facts than to the relatives’ fears.

– You report the suggestion that eating hamburgers might cause CJD. \textit{No expert in the field has found evidence to support the idea that eating beef may be a cause of CJD.}

– Whilst there \textit{has} been speculation that there may be a link between CJD and the cattle disease Bovine Spongiform Encephalopathy (BSE), there is no scientific evidence of such a link; neither is there evidence of any link with scrapie, a disease of sheep which has been known for over 200 years.

I do not think you should have allowed your sympathy for very distressing circumstances to have led you to publish something which will obviously have alarmed people – and quite unnecessarily.

\textsuperscript{2381} YB94/1.25/10.1–10.2
\textsuperscript{2382} YB94/1.25/7.1; YB94/1.25/8.1
5.368 The letter concluded by referring to the previous ‘beef is safe’ statement made by Dr Calman in March 1993 (see paragraph 5.331). Baroness Cumberlege said:

    The Department continues to monitor developments in this area closely and will carefully consider all new evidence as it emerges. I am confident that all necessary action has been taken to safeguard public health.2383

5.369 On 26 January, Dr Will described the case to SEAC and advised that the ‘tests were inconclusive and the surveillance unit had classified the case as “possible CJD”’.2384

5.370 Media interest continued on 26 January 1994, when several newspapers reported on the Victoria Rimmer case. *Today* newspaper followed up the article of the previous day with an article entitled ‘Will the Time Bomb Explode?’. They reported that ‘Vicky Rimmer loved burgers and is now believed to have a form of mad cow disease. The next five years should tell whether many more are in danger’.2385

5.371 An article in *The Times* on the same day entitled ‘“Infected meat” threatens the life of girl, 16’ reported that the case of Vicky Rimmer was causing concern among medical experts, some of whom feared it could provide the first link between CJD and BSE.2386 The article quoted Professor Richard Lacey as saying:

    We know the most likely food is processed food, the burgers and sausages. We have to assume it was these products, from cows, that caused the disease and we think this is the first certain case of BSE infecting a member of the human race by this method.

5.372 Also on 26 January 1994, an article in the *Guardian* entitled ‘Woman’s illness fans beef fears’ reported again on Vicky Rimmer. The article went on to quote Dr Helen Grant, a consultant neuropathologist, as stating:

    The ministry still permits use of calves brains in pies, pates, stock cubes and the like. In my view this is highly irresponsible.2387

5.373 On the same day the *Daily Mirror* printed two articles. The first was entitled ‘Tragic diary of girl doomed by Mad Cow beefburger’, and gave a detailed account of Vicky Rimmer’s symptoms.2388 The second was entitled ‘Act Now or Face Deadly Epidemic’, which quoted Professor Lacey as stating:

    I am convinced CJD can be caused by eating meat from cows infected by Mad Cow Disease. The only explanation for this 16-year-old girl’s condition is that it came from contaminated beef.2389

5.374 In response to the media attention Dr Calman released a statement on 26 January 1994. This stated:

2383 YB94/1.25/2.1–2.3
2384 YB94/1.26/2.3
2385 YB94/1.26/17.1–17.2
2386 YB94/1.26/16.1
2387 Ibid.
2388 YB94/1.26/20.1
2389 Ibid.
I am concerned about the recent spate of irresponsible scare stories in the press suggesting that people are at risk of contracting the fatal Creutzfeldt-Jacob disease from eating beef. These sensational and alarmist reports must inevitably frighten large numbers of ordinary people – and for no good reason.

The facts are clear. Creutzfeldt-Jacob disease is extremely rare – only one person in a million gets it – and those unfortunate people who do get it have contracted it for a variety of reasons. There is no evidence at all that eating infected meat is one of them.

Newspaper reports have been commenting on the sad case of one sixteen year old girl – yet no one knows what illness she is suffering from.

We do not ignore any suggestions about the causes of diseases of this seriousness, and the Government have invested considerable resources on the research issues in recent years looking at:

– the incidence of CJD;

– the causes of each individual case;

– any possible links with BSE.

On the basis of the work done so far, there is no evidence whatever that BSE causes CJD and, similarly, not the slightest evidence that eating beef or hamburgers causes CJD.

My position as the Government’s Chief Medical Officer means that I must provide the best advice to the public, whatever the consequences. If there was any evidence that suggested a link, then I would regard it as my responsibility to bring it to public attention.

5.375 In his statement to us Dr Calman said:

On the 13th January 1994 a national newspaper reported on a 16 year old girl who had developed a CJD like disease and linked this to hamburgers. As a result I released a statement on 26th January 1994 reiterating the view that on the basis of the work done so far there was no evidence whatsoever that BSE causes CJD and similarly not the slightest evidence that eating beef or hamburgers causes CJD.

5.376 Sir Graham Hart, the Permanent Secretary for DH (1992–97) discussed his reaction to the case of Vicky Rimmer in oral evidence:

Well, I made a judgment that the world had not, you know, as it were changed catastrophically at that point. One obviously had at the back of one’s mind at this time that there was a possibility here; still relatively remote, but real, but we had not reached the point at which, you know, one’s balance of judgment tips over into it looks as though it is really bad news.
MR FREEMAN: Looking at that possibility that it might be something catastrophic, what action did you take, if any?

SIR GRAHAM HART: As I say, as we have just said, I discussed it with Sir Kenneth, and we agreed, the Department, you know, what needed to be done, which was to continue with very careful surveillance, consideration, to keep SEAC fully in the picture and so on and so forth. But we did not conclude that it was necessary to take any additional safeguarding action, given that we believed that safeguards were already in place.2392

5.377 On 27 January, Dr Calman’s statement was reported widely within the media. An article in the Guardian entitled ‘Health chief rejects “scare stories” linking CJD and beef’ quoted Dr Calman’s statement.2393

5.378 An article in the Independent on 27 January 1994, entitled ‘Statistics that leave a bad taste in the mouth’, discussed a television programme about BSE on a Channel 4 documentary series ‘Dispatches’, which had reported on the case of the 16-year-old girl. Professor Lacey was quoted as saying (in the television report): ‘the only way she could have got this was by eating something’. The ‘official spokesperson’ (who was unnamed) was reported as saying the case ‘isn’t statistically significant’. The article noted:

Both parties are whistling in the dark for the moment but with one crucial difference – the penalty for believing the calmers, if they get it wrong, is rather more severe than that for believing the alarmers.2394

Discussion: Dr Calman’s statement on the case of Vicky Rimmer

5.379 It is possible that Dr Dealler’s and Professor Lacey’s conclusions that Vicky Rimmer had contracted CJD from eating contaminated beef was correct.

5.380 Her case had, however, been considered by Dr Will. His conclusion, which had been communicated to Dr Calman, was that it was uncertain whether she was suffering from CJD (see vol. 8: Variant CJD, Chapter 5).

5.381 In these circumstances we consider that it was reasonable for Dr Calman to make a public statement to counter the media reports which suggested that the link between Vicky Rimmer’s disease and eating beefburgers was established. We feel that his statement:

On the basis of the work done so far, there is no evidence whatever that BSE causes CJD and, similarly, not the slightest evidence that eating beef or hamburgers causes BSE.2395

was somewhat more emphatic than was desirable, but not to the extent that it would be right to criticise Dr Calman for his choice of language.

2392 T66 p. 116
2393 YB94/1.277.1
2394 YB94/1.278.1
2395 YB94/1.263.1
The joint MAFF/DH press release on calves

5.382 As discussed earlier in this chapter, the preliminary results of a pathogenesis test in June 1994 had revealed BSE infectivity in the small intestines of calves (see paragraph 5.210 above).

5.383 MAFF and DH, after seeking the advice of SEAC, decided to extend the SBO ban to cover the intestine and thymus of calves under six months old on 27 June, and the Bovine Offal (Prohibition) (Amendment) Regulations came into force on 2 November 1994 (see paragraph 5.210).

5.384 The decision and the proposal to make an announcement to the public on the pathogenesis results were discussed at a Cabinet meeting on 30 June 1994. The Cabinet minutes noted the following discussion points:

a) there was a risk that a Parliamentary announcement would provoke reactions among the public and the European partners which would be out of all proportion to the significance of the scientific findings. In these circumstances it might be better simply to leave it to the CMO and the CVO to give a purely technical briefing, as was done in the cases of other risks to human health.

b) on the other hand the Government’s entire policy in relation to BSE had rested on the reputation it had built for openness about the infection. In current circumstances, given the level of public concern in both the United Kingdom and Germany, a parliamentary announcement was politically essential; and a written Parliamentary Question had already been arranged. Moreover, in the absence of a Government announcement, news of the research findings would inevitably come out after the meeting of the Scientific Veterinary Committee in Brussels and was likely to be presented in a much more unfavourable light. The balance of advantage clearly lay with the course of action proposed by the Minister of Agriculture, Fisheries and Food . . .

e) it was essential that in their press briefing the CMO and the CVO should make it unambiguously clear that there was no risk to human health from the consumption of beef and not use terms such as ‘minuscule risk’.

5.385 The Prime Minister, Mr John Major, when summing up the Cabinet discussion, said that Mrs Shephard should proceed with the public announcement as planned. 2396 ‘It was important that both the Government announcement and the joint briefing by the CMO and the CVO should emphasise that eating beef presented no risk to human health.’ 2397

5.386 On 30 June 1994, MAFF and DH released a joint news release entitled ‘Results of Further BSE Experiment Announced’. 2398 The news release was based on Mrs Shephard’s written answer to a Parliamentary Question, and included a copy of a background document which gave more detailed information about the experimental results and the advice of SEAC, the CMO and CVO. The news release opened with the following remarks:

2396 The text of the announcement was tabled at the meeting
2397 YB94/6.30/23.1–23.7
2398 YB94/6.30/6.1–6.8
The Government has announced preliminary results of an experiment to trace the biological routes through which BSE develops in cattle. These confirm that, following the feeding of calves with a large dose of BSE-infected material, traces of the disease can be detected in animals’ small intestines.

The results have been assessed by the independent expert advisory committee chaired by Dr David Tyrrell and by the Government’s Chief Medical Officer Dr Kenneth Calman. Although they consider that the risk to human health is minuscule, the existing ban on the use of specified bovine offals is to be extended to include the intestines and thymus of calves under the age of six months, in line with the Government’s policy of extreme caution in dealing with BSE.2399

5.387 The news release continued with Mrs Shephard’s Written Answer, which opened with the comment: ‘The Government’s Chief Medical Officer continues to advise that there is no evidence that humans can contract Creutzfeldt-Jakob Disease (CJD) from an animal with BSE.’ It continued with the results of the experiment and the advice from SEAC. Her concluding remarks included the following:

We have concluded while the assessment of SEAC and of the CMO is that any risk to health is minuscule, the Government’s policy of extreme caution in relation to BSE requires us to ensure that the tissues in which infectivity might potentially occur are removed from the human and animal food chain. We accordingly propose to extend the scope of the existing ban on the use of specified bovine offal to the intestines and thymus of calves under the age of six months. An exception will be made for calves which die before two months of age which cannot be used for human consumption under other existing legislation. The necessary Orders will be duly made with the minimum of delay. This action is purely precautionary and will be kept under review. 2400

5.388 The background document issued with the news release gave a brief history of BSE, outlined the existing control measures, and gave information on the incidence of CJD and the results from the new research. It also included the advice given by SEAC at their meeting on 25 June and the statements from Dr Calman and from Mr Meldrum (who also held a joint press conference):

Advice from the SEAC

13. In view of this new evidence, SEAC was asked to meet as a matter of urgency on 25 June to consider any possible hazards the finding might pose for man. The conclusions of the committee on 25 June were as follows.

(a) On human health

The committee considered that the theoretical risk of infection of man via food derived from infected calves is minuscule if it occurs at all but information on calves is still very limited and as the experiment is still in progress and further information is expected it will be necessary to monitor

2399 YB94/6.30/6.1
2400 YB94/6.30/6.2
these results carefully to see if this basic conclusion is correct and to see whether further action is needed.

(b) On animal health

The Committee considered that no further action was necessary on the basis of the scientific evidence.

It was also noted in relation to these conclusions that at this stage one cannot give a definitive answer. There is a theoretical risk and the Government could respond by a limited SBO ban for calves to exclude the intestines. The committee was also concerned that other tissues might carry infectivity and be used for human food but there was no evidence of this at the moment. The situation should be carefully monitored.

Action proposed by the Chief Medical Officer in agreement with the Chief Veterinary Officer

14. Following receipt of the advice from the SEAC we have thoroughly considered the matter. We have concluded that it would be consistent with the Government’s policy of extreme caution on BSE, and would be appropriate in the light of the latest information, to extend the definition of specified bovine offal to include the intestines and thymus of calves under 6 months of age.

15. Although no finding of infectivity has been made in the bovine thymus this is an organ which is sold for human consumption as sweetbreads, and which is a permitted ingredient of meat products. Inclusion in the definition of specified bovine offals will ensure that any risk of transmission of BSE by this route is closed off. The remaining offals of calves which are defined as specified bovine offals in the case of cattle over 6 months – the brain, spinal cord, spleen and tonsils – are not considered, in the light of the available information, to present any risk. A specific exemption is considered appropriate in the case of calves under two months of age which die, accidentally or as a result of a disease, on the farm or in transit. The carcasses of animals which have died in this way are not permitted to go for human consumption. The pathogenesis study has detected no infectivity within two months of experimental challenge, so the risk of transmission from the intestine or thymus of such calves may be considered negligible.

Statement by the Chief Medical Officer on eating beef

16. I can reiterate what I have said previously.

17. On the basis of the work done so far, there is no evidence whatever that BSE causes CJD and, similarly, not the slightest evidence that eating beef or hamburgers causes CJD.
My position as the Government’s Chief Medical Officer means that I must provide the best advice to the public, whatever the consequences. If there was any evidence that suggested a link between BSE and CJD then I would regard it as my responsibility to bring it to public attention.2401

5.389 The day after the press announcement the Guardian newspaper, in an article entitled ‘Minister admits calves are hit by mad cow disease’, included a comment from Dr Helen Grant on the extended ban. Dr Grant had been ‘urging a ban’ on calf brains and other suspect organs since 1988:

Now it is proven that the infection can arise in a calf, there is no question that many infected young beef animals without symptoms are being slaughtered and eaten.

5.390 The article also reported Gavin Strang, Opposition agriculture spokesman, as saying:

We repeatedly called on ministers to extend the ban on offal to calves ever since the Agriculture Select Committee recommended this in July 1990.2402

5.391 On 7 July 1994, the MAFF Consumer Panel2403 met, and a panel member, Ms Suzi Leather, raised the extended SBO ban as an issue. The minutes of the meeting reported:

Ms Leather asked the Minister whether, in the light of recent developments in policy on BSE, the Government should not ban all offal from animals under six months old entering the food chain as recommended by the Commons Committee 4 years ago. She did not think that an incremental banning policy was either sensible or inspired much confidence. Mrs Kimbell agreed that this advice seemed sensible. Mr Soames disagreed and said that we must act on scientific advice. He also said that the figures for suspect cases were showing an overall decline . . .2404

Press release on the third report of CJDSU

5.392 On 7 October 1994, DH published the third report of the CJDSU. The accompanying press release noted the main findings of the report. The findings of the reports of the CJDSU are described in vol. 8: Variant CJD:

. . . We see no evidence from the report of an emerging CJD epidemic. The incidence of CJD in the UK continues to be similar to other European countries. . .

There is no evidence of space-time clustering of CJD cases and no evidence of links with particular occupations. Analysis of possible dietary links continues but interpretation is difficult. We note that the statistical association between black pudding consumption and CJD in last year’s
report has not been confirmed in the present analysis. The finding on veal in this year’s report should be seen in this context. It does, however, appear worthy of further investigation by the unit in conjunction with other national CJD surveillance projects within Europe.

We have no further recommendations to make to Government on the basis of the report and remain satisfied with the adequacy of current controls to protect public health in regard to CJD. 2405

Discussion: the decision to extend the SBO ban to cover calves’ intestines

5.393 This decision was a model of how government ought to handle such an issue.

- SEAC’s advice was sought as to the implications of the finding in the pathogenesis experiment.
- SEAC limited their advice to the effect this had on the question of risk of transmission to humans and did not recommend the appropriate policy decision.
- MAFF and DH worked closely together in considering the appropriate response.
- The issue was discussed with Mrs Shephard at a meeting at which the CMO expressed his advice in favour of an extension to the SBO ban.
- The effect that such an extension would have on trade was considered.
- The Minister and the Parliamentary Secretary were in agreement that ‘protecting the public health was the first of MAFF’s aims’. The CMO’s advice would be followed notwithstanding the potential for serious impact on trade. 2406
- The practical implications were considered.
- The results of the experiment and the Government’s response were announced without delay.
- There was swift consultation and prompt action. Slaughterhouses, local authorities and bodies consulted were individually informed of the extension of the Regulations.

5.394 We have no criticism to make of the terms of the joint press release. This adopted the language of SEAC in describing the risk to health disclosed by the experiment result as ‘minuscule’. We note that in discussion at the Cabinet meeting one of the participants objected to this description, as detracting from the position that there was ‘no risk’ from eating beef. We would have been concerned had any attempt been made to get the CMO to alter his statement, but it was accepted that it should go out as drafted (see paragraphs 5.386–5.387).