6. Events from 1 April to 31 December 1995: human health returns to the agenda

Introduction

6.1 The events in the BSE story during 1995 were well summarised by Mr Thomas Eddy in his statement to the Inquiry:

1995. A year which started with concerns about CJD [Creutzfeldt-Jakob Disease] cases in dairy farmers, continuing trade problems and saw the introduction of the Meat Hygiene Service (MHS) and the realisation that public health controls were not as they should be in some slaughterhouses and the first glimmerings that a new form of CJD might be arising.

6.2 In this chapter we start with the launch of the Meat Hygiene Service (MHS) on 1 April 1995, which was set up to bring about significant changes in the arrangements for enforcing meat hygiene standards in slaughterhouses. We describe briefly the functions of the Service and how it was staffed. We look at the views of witnesses about the benefits to be gained from the new arrangements. During the period covered by this chapter the MHS initiated two surveys of standards in slaughterhouses. We look at the results and outcomes of these surveys.

6.3 We then turn to the results from slaughterhouse surveillance by the State Veterinary Service (SVS) from April to December 1995. We give a chronological account of the surveillance visits to slaughterhouses undertaken by the SVS during this period to assess the extent of compliance with the SBO Regulations. We describe how during the second half of 1995 the SVS recorded instances of pieces of spinal cord being left in some carcasses at some slaughterhouses, and how, as a result, there were growing concerns within the Ministry of Agriculture, Fisheries and Food (MAFF) and Department of Health (DH) that BSE control measures were not being implemented adequately in some slaughterhouses.

6.4 The next main section of the chapter looks at developments in relation to mechanically recovered meat (MRM) from April to December 1995. As a result of the SVS reports that some slaughterhouses were not completely removing spinal cord from some carcasses, MAFF sought the views of the Spongiform Encephalopathy Advisory Committee (SEAC), which concluded that, as a precaution, the use of bovine spinal column should be suspended in the production of MRM. We look at how this advice was implemented by means of the Specified Bovine Offal (Amendment) Order 1995, which came into force on 15 December 1995.
6.5 We then turn briefly to look at other developments in relation to BSE and CJD during April–December 1995, in particular the incidence of CJD in farmers and young people and the continuing BSE epidemic as a result of cases born after the ruminant feed ban. Further details on these two aspects of the story are given in vol. 8: *Variant CJD* and vol. 2: *Science* respectively.

6.6 The final section of the chapter examines the various statements issued during April–December 1995 by the Meat and Livestock Commission (MLC), Sir Kenneth Calman the Chief Medical Officer (CMO), the Secretary of State for Health and members of SEAC, and the reaction in the media to these statements. We also look at the efforts made by the MLC, in collaboration with MAFF, to increase sales of beef to the domestic market during this period.

**Overview of events, 1 April to 31 December 1995**

6.7 A national MHS was launched as an executive agency of MAFF on 1 April 1995, taking over responsibility from local authorities for meat inspection activities at slaughterhouses and other fresh meat establishments licensed by the Agriculture Departments in Great Britain.

6.8 Shortly after its launch, the MHS initiated the Hygiene Advice Team (HAT) exercise, a detailed inspection of hygiene and animal welfare standards in all full throughput slaughterhouses. The exercise was to provide baseline information on standards in the meat industry with the intention of measuring the progress of the MHS against these standards.

6.9 A suspect case of CJD in a teenager was referred to the CJD Surveillance Unit in May 1995. Press comment, and the reaction of MAFF and DH, are described in vol. 8: *Variant CJD*.

6.10 Animal Health Circular (AHC) 95/74 was issued to SVS staff on 19 May 1995, requiring unannounced visits to every slaughterhouse and cutting plant handling bovine material, to check on separation and staining of specified bovine offal (SBO), among other things. Subsequent surveillance visits were to reveal problems of compliance with the SBO Regulations, in particular the incomplete removal of spinal cord from some carcasses at some slaughterhouses.

6.11 Commission Decision 95/287 on 18 July 1995 amended the rules for export of fresh bovine meat from the UK to Member States. Previous restrictions had not applied to meat from cattle born after 1 January 1992. This exemption was replaced with a provision exempting meat from cattle less than 30 months old at slaughter.

6.12 On 20 July 1995 the Specified Bovine Offal Order 1995 was made. This replaced and extended the existing bans on SBO in human food and in animal feed. Among other new prohibitions, it introduced restrictions on the premises where spinal cord could be removed from the vertebral column of cattle. The MLC issued a ‘Position Statement’ welcoming the proposed new measures, adding that there were no implications for human health because (among other reasons) ‘all specified bovine offals from all cattle are removed and destroyed before the meat enters the

6.13 In the meantime, the MHS also commissioned a survey by a company of private veterinarians on compliance with SBO controls in slaughterhouses as at 1 April 1995.

6.14 In late September 1995 press reports described a third case where a person associated with a BSE-affected cattle herd had been diagnosed as having CJD. This is described further in vol. 8: Variant CJD.

6.15 The CJD Surveillance Unit’s Fourth Annual Report was published on 5 October 1995. On the same day, DH issued a press release from the CMO, Dr Calman, stating that ‘beef and other meats are safe to eat’.

6.16 On 26 October 1995 letters were published in the Lancet describing two cases of CJD in young patients. (One of these was the patient referred to the CJD Surveillance Unit in May.) This is described further in vol. 8: Variant CJD.

6.17 At a meeting on 9 November 1995, Mr Hogg told representatives of the slaughterhouse industry of his concern at the number of failings in SBO handling that had been found during the SVS visits, that he expected 100 per cent compliance, and that the MHS would be enforcing the controls ‘most rigorously’.

6.18 Acting on the advice of SEAC, on 28 November 1995 the Government announced that it would prohibit the use of bovine vertebral column in the manufacture of MRM. This was achieved by the Specified Bovine Offal (Amendment) Order 1995, coming into force on 15 December.

6.19 During November and December 1995, the MLC ran an advertising campaign praising the UK veterinary and slaughterhouse regulations and their enforcement, and saying: ‘With such stringency, even the remotest perceived risk is avoided.’

6.20 On 3 December 1995, in an interview on London Weekend Television, it was put to Mr Stephen Dorrell that: ‘There is, you are saying, no conceivable risk from what is now in the food chain.’ Mr Dorrell agreed.

6.21 On 7 December 1995 Dr R E Kendell, Chief Medical Officer for Scotland, issued a press statement dealing with the eating of beef and the question of whether there was a connection between BSE and CJD. This is discussed in vol. 9: Wales, Scotland and Northern Ireland.

6.22 Changes to the teams of ministers and officials in MAFF and DH during the period covered by this chapter included:

MAFF Ministers

- Mr Douglas Hogg succeeded Mr William Waldegrave as Minister of Agriculture, Fisheries and Food on 5 July 1995. On the same day Mr Antony Baldry succeeded Mr Michael Jack as Minister of State. Earl Howe ceased to be Parliamentary Secretary (Lords) on 6 July 1995 and Mr Tim Boswell became Parliamentary Secretary (Commons) on that day.
MAFF officials

- Dr Richard Cawthorne was Head of the Animal Health (Zoonoses) Division until that Division was disbanded on 31 March 1995 and he became Veterinary Head of the Notifiable Diseases Division.

- Mr Peter Hewson became Temporary Veterinary Head of Section, Meat Hygiene Veterinary Section, on 31 July 1995. He took with him his responsibilities as Superintending Meat Hygiene Adviser.\(^{2410}\)

- Mr Johnston McNeill formally took office as Chief Executive of the national Meat Hygiene Service (MHS) on 1 April 1995. Mr Philip Corrigan was MHS Head of Operations until August 1995, when Mr Peter Soul, then Temporary Deputy Veterinary Head of the Meat Hygiene Veterinary Section, assumed the responsibilities of Acting Head of Operations. Mr Soul became Director of Operations of the MHS on 1 December 1995.

DH Ministers

- Mr Stephen Dorrell succeeded Mrs Bottomley as Secretary of State in July 1995. In November 1995 Mr John Horam succeeded Mr Sackville as Parliamentary Under-Secretary (Commons).

DH officials

- Dr Gerald Jones retired as Senior PMO in the Health Aspects of Environment and Food Division (M) in March 1995. This Division and its administrative counterpart were merged to become HEF Division under Dr Eileen Rubery as Under Secretary (Grade 3). Dr Wight became Head of an integrated unit within the Division, continuing to report to Dr Roger Skinner. Mr Charles Lister left HEF Division in November 1995, and Mr Mike Skinner attended subsequent meetings of SEAC as DH member of the Joint Secretariat.

The Meat Hygiene Service (MHS)

6.23 In Chapter 5 we described the background to the decision by Ministers to establish a national system of regulation of meat hygiene, and developments in relation to this up to the end of March 1995. The new national MHS was launched as an Executive Agency of MAFF on 1 April 1995, with Headquarters at York and operating in England, Wales and Scotland. From that date responsibility for meat inspection activities at slaughterhouses and certain other premises was transferred from local authorities to central government. Under the Bovine Offal (Prohibition) (Amendment) Regulations 1995, central government’s enforcement role was to include the ban on SBO in human food.\(^{2411}\) It was the task of the MHS to carry out this enforcement role on behalf of central government.

6.24 Mr Johnston McNeill was the Chief Executive of the MHS, reporting to Mr Carden, who as well as being the Head of Food Safety Directorate at MAFF was...
the Chairman of the MHS Ownership Board. Mr Philip Corrigan was Head of Operations until August 1995, when Mr Peter Soul became Acting Head of Operations. In December 1995 Mr Soul became Director of Operations.

6.25 The MHS Framework Document set out various details about the Service, including the legal framework in which it operated, how it was organised, its aims and functions:

Legal Framework

1.3 The MHS is an agency established by the Minister of Agriculture, Fisheries and Food (‘the Minister’) to fulfil the functions of the Minister and Secretaries of State for Scotland and Wales in relation to hygiene, inspection and welfare enforcement in licensed fresh meat establishments required by relevant European Community Directives. These statutory functions may additionally be supplemented by the Ministers’ common law powers.

Organisation

2.1 The MHS is headed by a Chief Executive who is responsible for the day to day management of the Agency in accordance with this Framework Document. He is supported by a senior management team and a total of some 950 staff at 1 April 1995. The MHS is organised on a regional basis and most of its staff work in licensed fresh meat premises.

Aim

3.1 The aim of the MHS is to safeguard public health and animal welfare through fair, consistent and effective enforcement of hygiene, inspection and welfare regulations.

Functions

3.3 The MHS discharges the responsibilities of the Minister and Secretaries of State for supervision, inspection and enforcement of meat hygiene and animal welfare in fresh meat establishments licensed by the Agriculture Departments. The principal functions of the MHS are:

(a) the enforcement of hygiene rules in licensed fresh meat premises

(b) meat inspection and health marking in licensed fresh meat premises

(c) the enforcement of hygiene controls in meat products plants which are integrated or co-located (on the same site) with licensed fresh meat premises

(d) the enforcement of welfare at slaughter rules in licensed red and poultry meat slaughterhouses

(e) the collection and despatch of samples for statutory veterinary medicines residue testing on behalf of the Veterinary Medicines Directorate
(f) the collection and despatch of samples for examination and testing on behalf of the State Veterinary Service

(g) the enforcement in licensed slaughterhouses of controls on veterinary medicines residues

(h) the enforcement in licensed fresh meat premises of controls over specified bovine offals and other animal by-products, and

(i) to provide export certification when required either by the importing country or by Community rules.

3.4 The Minister will provide the Chief Executive with guidance on carrying out these functions in an Operations Manual.2413

6.26 The Framework Document also described the role of the Chief Veterinary Officer (CVO) in relation to the MHS and its staff:

3.5 The Chief Veterinary Officer (CVO) is head of the State Veterinary Service (SVS) and is responsible to Ministers for the protection of public and animal health. In particular, the CVO must be able to demonstrate that the health mark is applied only to meat produced in accordance with European Community rules and that meat exported to third countries complies with the conditions imposed by the importing country and is accompanied by any necessary veterinary certification.

3.6 The CVO and the Chief Executive will agree each year arrangements for the State Veterinary Service to audit compliance with the legislation and the professional/technical performance of the MHS.

3.7 The SVS designates Official Veterinary Surgeons (OVSs) and Local Veterinary Inspectors (LVIs) on behalf of Ministers and may recommend suspension of that designation. Export conditions are negotiated and certificates are issued by the Animal Health and Veterinary Group of the Department and OVSs/LVIs employed by the MHS must abide by any instructions in relation to such certificates. On rare occasions it may be necessary for the CVO to issue instructions directly to Official Veterinary Surgeons where, for example, a major disease outbreak may require an export certificate to be withdrawn or modified.2414

6.27 The foreword to the Framework Document was signed by the Minister of Agriculture, Mr William Waldegrave, and included the following comments:

. . . The MHS was not previously a part of the Ministry of Agriculture, Fisheries and Food. Its establishment has involved not only the development of a completely new management organisation but also the transfer of staff from local authorities.

In March 1992 the then Minister, John Gummer, announced the intention, following a major review, to create a single agency to be responsible for
enforcement of meat hygiene in Great Britain. In the three years since that announcement a great deal of effort has been put into creating a new, single management and operational structure to take on work carried out previously by local authorities. The great majority of MHS staff transferred to the agency on its establishment. They have come from some 300 local authority employers and bring with them a wealth of different experience. I welcome them to the new national service . . .

Operating throughout Great Britain the MHS will provide common and consistent standards of enforcement and provide the fresh meat industry, for the first time, with the opportunity to discuss issues with a single enforcement agency. This consistent service, on a standard basis for all operators, is something for which the industry’s representative organisations have long pressed. The organisation and operation of the MHS has been established to ensure that it provides high quality services in a cost effective manner to the industry it serves.²⁴¹⁵

6.28 Mr Alan Lawrence, who headed the MHS Project Team, described the strengths of implementing the MHS in his statements to us:

Some of the strengths and opportunities identified in adopting this option were that the responsibilities would rest with one organisation, which would be accountable to Government, a pool of trained, experienced staff would be available for enforcement; uniformity of national standards by starting with a new organisation; best practice, standards and structure could be instituted; recruits could be inculcated with the spirit of the Agency.²⁴¹⁶

. . .

. . . in my opinion the key features to a successful launch and development of the MHS were: –

– the operations manual (to provide consistency through written procedures and be subject to continuous review);

– the provision of training in all aspects of the MHS’s activities;

– the hygiene assessment system;

– the ability to respond rapidly to any new guidance/instructions from MAFF.

. . . I thought none of this would have been possible under the old regime.

I think all of these key features are in fact elements in a move towards the introduction and implementation of quality assurance/HACCP [Hazard Analysis Critical Control Point] techniques, both for plant management and the enforcement authorities (MHS (as the delivery arm) and MAFF (auditing the performance of the delivery arm)).²⁴¹⁷
6.29 Mr Lawrence also told us:

In my view, the MHS is delivering what it set out to do, which is ‘to safeguard public health and animal welfare through fair, consistent and effective enforcement of hygiene, Inspection and welfare regulations’. I think too, that the organisation which the Project Team developed has, to a large extent, been vindicated.

To quote a recent article:

‘When the MHS was established in 1995, the concept of a nationwide service taking over from the local authorities in the inspection of meat in abattoirs and cutting plants was greeted with some scepticism. There were fears about bureaucracy and increased costs to the industry.

Three years on, the MHS has become an integral part of the industry that has undergone turbulent times and faced one crisis after another. With the burden of inspection increasing through BSE, clean livestock regimes and smr regulations, there are doubts whether the fragmental system that ran before the centralised national service could have coped with current pressures.”

6.30 Mr Richard Packer, Permanent Secretary of MAFF, was asked during oral evidence about the delay in establishing the MHS, bearing in mind that the proposal to introduce a national meat hygiene inspection system had been made by Mr Gummer in July 1991, when he was Minister of Agriculture. In his reply he commented on the effect of the MHS on standards of SBO controls within slaughterhouses.

MR WALKER: . . . Can you say whether that may have had an effect on the BSE story? Would things have been different if the Meat Hygiene Service had been up and running at the time planned rather than one year later?

MR PACKER: That I could not say. What I could say is that the decision to go ahead with the Meat Hygiene Service has, in my view, proved to be a very well founded one, and standards of SBO controls across the board have been driven up in a way which would – SBO controls of course being an important but a relatively small part of the duties of enforcement in slaughterhouses. The standards have been driven up in a way which would – which I doubt whether it would have been possible under the previous system.

MR WALKER: Do you think that the existence of those standards helped in dealing with BSE?

MR PACKER: I think there must be a lot in the proposition that the higher standards are across the board, the more comfortable one feels.

6.31 Mr Richard Carden, MAFF Deputy Secretary and Head of Food Safety Directorate, was also of the opinion that the MHS had improved standards in slaughterhouses.

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2418 S76 Lawrence paras 292–3
2419 T83 pp. 95–6
The Meat Hygiene Service quickly came to serve a key role in helping MAFF to step up the effectiveness of BSE-related (SBO) controls in slaughterhouses, as well as to move standards of hygiene in slaughterhouses to a markedly higher level than had been achieved under the previous (local authority operated) system.2420

The transfer of staff from local authorities to the MHS

6.32 Mr Peter Soul discussed the transfer of staff from local authorities to the MHS in his statement to us:

It was clear that many local authority staff working in licensed abattoirs had not been trained in enforcement and had not had an enforcement culture instilled into them. Most of these individuals transferred into the MHS on 1 April 1995 under the Transfer of Undertakings (Protection of Employment) legislation (TUPE). MHS management was faced with a major challenge to change the culture of these same individuals in order to achieve effective enforcement of all the legislation (not just the SBO Order).

This cultural change is being brought about by means of various training initiatives, better, clearer and more comprehensive instructions, more effective management, incentives in key areas, the introduction of quality systems and audit and a strict, firm but fair disciplinary code for all MHS staff.2421

6.33 Mr Johnston McNeill, Chief Executive of the MHS, discussed the attitude to the SBO Regulations of meat inspectors transferring into the MHS:

. . . some scepticism prevailed . . . that perhaps this was an animal health issue and whilst the regulations were there, there was no chance of a risk to public health, and was it really essential and a bit of apathy existed which concerned us at that time.2422

Surveys of standards at slaughterhouses commissioned by the MHS from April to December 1995

6.34 In this section we look at two surveys on slaughterhouse standards commissioned by the MHS. First, we note a report about standards at slaughterhouses from a partnership of private veterinarians which provided Official Veterinary Surgeon (OVS) inspection services – Eville & Jones.2423 This report was furnished in August 1995, but we look at it first because its aim was to describe the position as they were aware of it on 1 April 1995. Second, shortly after its launch the MHS started ‘a major benchmarking exercise to assess standards within the industry’.2424 This exercise was taken forward within the MHS by Hygiene Advice Teams (HATs).

2420 S103 Carden para. 10
2421 S88 Soul paras 4.4.4–4.4.5
2422 T37 p. 126
2423 The report was requested because the MHS was concerned at findings from SVS visits described later in this chapter: see S96A McNeill paras 2–3
2424 S96 McNeill para. 1.9.8
Report to MHS from Eville & Jones – Veterinary Meat Hygiene – on deficiencies in SBO controls at slaughterhouses

6.35 On 17 August 1995 Eville & Jones submitted a report to Mr Corrigan summarising deficiencies in SBO controls as at 1 April 1995 in slaughterhouses they had visited. The report was recorded as being prepared in response to a request from the MHS and noted (among others) the following deficiencies:

1. Northern England and Scotland
   a. Glasgow
      – Incomplete removal of spinal cords
      – Pieces of intestines removed with mesenteric fat and not treated as SBO
      – Lack of awareness of SBO legislative requirements and poor understanding of SBO control . . .
   c. Huddersfield
      – Incomplete removal of spinal cord
      – Obvious lymphatic tissue and nervous tissue not removed during boning
   d. Derbyshire
      – Poor spinal cord removal
      – Bovine intestines being included in bins of fat and not stained

2. Eastern England
   a. Norfolk
      – Incomplete removal of all SBO from carcasses . . .

3. South West England and Wales
   – Lack of awareness from plant staff as to what constitutes SBO
   – Poor removal and separation of SBO
   – Cutting plants uncertain as to SBO legislative requirements

6.36 The report noted in conclusion that ‘most of the points outlined in this report have undergone significant improvement over the last five months since 1 April 1995’.
6.37 Mr Corrigan forwarded the report to Dr Richard Cawthorne, the Veterinary Head of MAFF’s Notifiable Diseases Section, on 23 August 1995. He noted that the report supported ‘the viewpoint that the general level of compliance was very poor’.

However, through the combined efforts of the SVS and MHS, I am now confident that there is at present a far greater (hopefully 100%) level of understanding and compliance in this regard.

As you are aware, the MHS continues to give the highest priority to SBO control and to the imminent EU review.2426

6.38 On 24 August Dr Cawthorne forwarded a copy of the report to Mr Soul of MAFF’s Meat Hygiene Section, Dr Danny Matthews, Senior Veterinary Officer, and Mr Andrew Fleetwood. He said:

You will be interested to see the results of this survey carried out by Eville and Jones on behalf of the MHS prior to April 1995.

The results are historical and events have overtaken them. However, I have to ask myself why the deficiencies identified were not brought to the attention of the SVS or MHD.2427

6.39 Mr Fleetwood commented on the report in his statement to us:

These findings corroborated (and had been superseded by) our own investigations, in which every plant in the UK had been visited. However, as Dr. Cawthorne recorded, neither the SVS nor Meat Hygiene Division at MAFF (and certainly not myself) had previously received this information. I found that very surprising.2428

The MHS HAT survey to assess various aspects of slaughterhouse standards

6.40 At the time of its establishment, the MHS had limited information about the standards in licensed fresh meat premises that it had inherited from the local authorities. Consequently it initiated a survey shortly after its launch to provide more comprehensive information. The survey was undertaken by its OVSs and meat inspectors organised into HATs, as described by Mr Soul in a statement to the Inquiry:

Following the launch of the MHS on 1 April 1995, a major exercise was undertaken to benchmark standards in the meat industry. This exercise was dubbed the ‘Hygiene Advice Team’ or ‘HAT’.

Teams of experienced Official Veterinarians and Senior Meat Hygiene Inspectors visited all full throughput abattoirs during 1995 and conducted a thorough and detailed inspection of hygiene and animal welfare standards and made an assessment of manning levels.

2426 YB95/8.23/2.1
2427 YB95/8.24/3.1
2428 S127 Fleetwood para. 100
A detailed report was produced by each team following each visit to a premises and sent to the relevant Regional Manager and copied to MHS HQ in York.\footnote{S88 Soul paras 4.5.7–4.5.9}

\subsection*{6.41} Mr Soul also told us about the purpose of the survey:

To assess operational hygiene and animal welfare standards as soon as possible after launch. The HAT provided a detailed database of information and baseline standards against which the MHS’s progress could then be measured.

To review staffing levels in order to correct anomalies which had existed between different local authorities and to achieve consistency of inspection levels within plants. The HATs reviewed the level of Official Veterinary Surgeons (OVS) supervision and meat inspection hours for each plant and made recommendations to the Regional Managers and Head of Operations.

To provide technical advice to plant operators and MHS staff in order to promote best practice and improvements in standards where appropriate.\footnote{S88A Soul para. 4}

\subsection*{6.42} Mr McNeill told us that the HAT teams spent a day at each slaughterhouse:

... assessing standards of operation, considering the appropriateness of the Inspection levels and advising MHS operational staff and plant management on how standards could be improved. Most of the HAT assessment focused on the hygiene and animal welfare standards but two points on the assessment form were relevant to SBO controls:

point 7.26 – ‘MHI’s involvement in trimming before health marking’;

point 7.27 – ‘Cattle: spinal cord removal before inspection’.\footnote{S96 McNeill para. 1.9.8. MHI = Meat Hygiene Inspector}

\subsection*{6.43} The HAT survey assessed the slaughterhouses using a hygiene performance indicator known as the Hygiene Assessment System (HAS), giving a score out of 100 to each of the premises visited. The aim was to provide a basis for comparing standards in slaughterhouses, and for monitoring progress in improvements of hygiene standards.\footnote{Report of the Meat Hygiene Service Hygiene Advice Team Audit M22A tab 5 p. 3 para. 3}

\section*{Results of the HAT survey in relation to removal of SBO}

\subsection*{6.44} On 13 July 1995 Mr Corrigan circulated a minute on SBO controls to MHS inspection teams. He reported that monitoring results from the HAT teams had indicated that ‘at some beef processing plants further improvements in SBO control and certification practices are still required’. He continued:

Included please find a SBO Control Responsibility Check List. Once again I request that necessary steps are taken to ensure that each member of the plant MHS team (OVS, SMHI and MHIs) and relevant plant personnel are...
fully aware of the detail and requirements of SBO controls and ensure that they are being fully complied with. 2433

6.45 The SBO Control Responsibility Check List was given as follows:

- The handling, identification and control of SBO is part of the national BSE control strategy.  
  MAFF/MHS/INDUSTRY

- SBO must be correctly separated from other material.  
  INDUSTRY

- SBO material is:-  
  - spinal cord
  - brain
  - spleen
  - tonsils
  - intestines
  - thymus  
  of bovine animal over the age of six months at the time of slaughter  
  INDUSTRY

- All SBO (particularly spinal cords and tonsils) must be removed completely.  
  INDUSTRY

- SBO material must be stained (whole of the surface of the material is covered) with Patent Blue V stain.  
  – Patent Blue V stain must be supplied by Industry.  
  INDUSTRY

- Pending removal from the premises SBO must be stored in containers or a room set aside for this purpose.  
  INDUSTRY

- SBO may not be removed from the premises of origin unless accompanied by a Movement Permit (England/Wales), Consignment Note (Scotland).  
  INDUSTRY

- The MHS is responsible for issue of Movement Permits/Consignment Notes for SBO moved from the premises.  
  – ultimately a copy of the permit with the relevant sections completed should be returned to the point of origins and acquitted with the original.  
  MHSS

- Details are outlined in Chapter 10 MHS Operations Manual  
  INDUSTRY/MHS

- Promotion/Extension/Education of national importance and details of SBO control procedures.  
  MAFF/MHS/INDUSTRY

- Monitoring of effectiveness of SBO controls  
  MHS/MAFF

6.46 Mr McNeill told us about the results of the HAT survey in relation to removal of SBO:

Approximately 14% of the HAT reports indicated that HAT team members gave advice on SBO controls in the 7.27 category [‘Cattle: spinal cord removal before inspection’] during their visits. In addition it was identified that in some plants SBOs such as tonsils, thymus and spinal cord were not fully removed from all beef carcasses before presentation for inspection by MHS staff. In some plants, MHIs routinely removed SBO as part of the accepted practice. This practice was not accepted by the MHS. 2434

6.47 Mr William Swann, a member of the HAT team, told us that ‘early in the HAT exercise, the level of non-compliance with SBO control regulations caused MHS Head of Operations to issue memoranda to all OVSs and MHIs to instruct them to be particularly diligent in this area’. Mr Swann described the deficiencies in SBO controls he had encountered:

Specifically, incomplete removal of spinal cord, failure to remove thymus, failure to separate spleen, failure to stain SBOs, failure to mark SBO containers, deficiencies in paperwork and failure to remove SBO spillage

2433 YB95/7.13/2.1
2434 S96 McNeill para. 1.9.9
from abattoir floors were all noted. More than 40% of all plants showed some degree of non-compliance with SBO regulations; this represents a higher level of non-compliance in beef plants.2435

6.48 Mr Swann also said that:

The HATs found deficiencies in the ability of some regulating staff to recognise SBO control irregularities. Some OVSs were unable to identify bovine thymus, some MHIIs were not aware of the importance of the need for complete removal of spinal cord.2436

6.49 Another member of the HAT team, Mr Christopher Clark (an experienced MHI)2437 provided us with a summary of the notes he had made in relation to SBO controls during his HAT survey visits to 57 beef slaughterhouses.2438 For category 7.26 [MHIs’ involvement in trimming before health marking] of the HAT assessment form, Mr Clark recorded that 56 slaughterhouses were satisfactory and one was unsatisfactory because the MHI was removing tonsils. For category 7.27 [Cattle spinal cord removal before inspection] he recorded that 46 slaughterhouses were satisfactory and 11 were unsatisfactory. Of these 11 plants, ten were unsatisfactory because there was incomplete removal of spinal cord, and one because the spinal cord remained after health marking.

6.50 Mr Clark also told us that the reports and assessment forms from the HAT teams’ visits were sent to the Regional Director, who would then forward it to the MHS Headquarters, which then sent the reports and the results of the HAT assessment to the slaughterhouses.2439 He told us that in relation to the hygiene and other deficiencies recorded by the HAT survey:

. . . clear instructions in the form of a standard letter were issued to all MHIIs and SMHIIs by the Director of Operations as to how the Regulations must be interpreted and compliance enforced.2440

6.51 Mr Clark also commented on the impact of the HAT survey on the compliance with the relevant regulations:

Audits of the nature carried out by HATs were a new experience for the management and staff in many plants. Previous experience was for auditing inspectors such as MAFF veterinary officers, on their periodic inspections, to arrive mid morning and to depart, in many cases, a few hours later. A written report would follow. In my experience, although these auditing inspectors would speak to the management of the plant and the Principal Environmental Health Officer/Environmental Health Officers, very often the Authorised Meat Inspectors and plant staff would not be involved in any discussions, or advised of the content of these reports.

2435 S158 Swann paras 14 and 16
2436 S158 Swann para. 18
2437 Deputy Senior Meat Inspector for South Holland District Council 1986 to March 1995, Hygiene Advice Team (HAT) Officer, MHS, April 1995 to March 1996
2438 S157 Clark Annex to statement
2439 S157 Clark para. 18
2440 S157 Clark para. 19
It is my view as a result of the HAT visits, a significant improvement in compliance with the Regulations was achieved. The main reasons for the improvement, in my opinion, may be attributed to the following factors.

(a) Many of the deficiencies identified by the HAT audit would have been present prior to 1 April 1995, but had not been identified or dealt with by visiting auditors prior to the establishment of the MHS. It is my understanding, from discussions with MHIs on HAT visits, that in some instances Authorised Meat Inspectors had not been supported by their Environmental Health Officers in their efforts to enforce the Regulations. In other cases, prior to the MHS, I was told that some Local Authorities had failed to give clear instructions to their staff with regard to SBO controls. In contrast, the MHS provided (and still provide) a great deal of information to MHIs (and HATs) on the relevant Regulations in force by way of loose-leaf updates to the MHS Operations Manual and Regulation book.

(b) The HAT checklist was very detailed and therefore highlighted any problems (including those relating to SBOs even though this was not the main concern of the HAT audit)

(c) The follow-up procedures after each visit were, I believe, effective in bringing about improvements through a combination of education and rigorous enforcement.2441

Preparation of the HAT report

6.52 By October 1995 most of the HAT visits were complete. On 5 October Mr McNeill, Mr Corrigan, others from the MHS and a representative from MAFF (Tolworth) met to discuss the preparation for publication of the final report of the HAT survey.2442 The meeting agreed, among other things, to set up a technical group to write ‘discrete parts of the Core Elements of the Report to be adopted and worked to by the rest of the Technical Group’.2443 Included in this group was Mr William Swann, who was to act as the editor for the section of the report on the red meat audit.2444

6.53 Mr Soul told us:

The remit given to the Technical Group was to produce a report covering all aspects of the HAT exercise together with a summary of the main findings from all the HAT visits and the main recommendations resulting from the whole exercise. Separate sections of the report were to be produced on red meat and white meat. The remit called for a balanced summary of the findings of the HAT exercise.2445

6.54 On 14 December Mr Swann presented his draft report on the MHS HAT exercise in red meat slaughterhouses to the editorial group.

6.55 On SBO the draft report stated as follows:

2441 S157 Clark paras 20–1
2442 YB95/10.05/5.1–5.4
2443 YB95/10.05/5.3
2444 S158 Swann para. 6
2445 S88A Soul para. 6
Meat Inspectors are frequently expected to trim visible contamination, remove SBO, expose kidneys and strip pleura. It is recommended that, with the possible exception of bovine tonsil removal, all these practices should be the responsibility of the plant staff.

Spinal cord was not fully removed from all bovine carcases. Bones containing spinal cord may be processed into animal feed, providing a possible source of infection to cattle.\footnote{M22A tab 6 p. 20}

6.56 The draft report continued:

Inspection deficiencies included procedural irregularities and SBO retention, in a number of plants, especially those with fast line speeds.\footnote{M22A tab 6 p. 29}

6.57 Mr Soul told us that the technical group had reflected on Mr Swann’s draft and:

The group was largely content with Mr Cooke’s draft on the white meat sector but considered that Mr Swann’s draft on the red meat sector did not reflect a balanced summary of the findings of the other members of the Technical Group and hence of the whole HAT exercise. Although Mr Swann personally undertook many HAT visits (albeit in only a limited area of the country) the editorial group considered that his draft placed too much emphasis on his own opinions rather than the overall findings of all the HATs. As a result, Mr Swann’s draft was considered by all the other members of the editorial group to be excessively negative and critical of much of the meat industry. It was proposed at the meeting on 14 December 1995 that he should revise the text. He declined and I received the typed copy of his completed draft on 19 December 1995.

In addition, the editorial group and I had other wider concerns about some aspects of Mr Swann’s first draft of the red meat part of the report relating to the false conclusions that readers of the report might draw based on information in the report that I and others considered to be open to misinterpretation . . . The drafts were also copied to Mrs Jane Brown of Meat Hygiene Division (MHD) of MAFF on 22 December. MHD agreed that some aspects of the report fell outside the original remit given to the Technical Group and should be re-written. I believe there was general agreement within MHD that Mr Swann’s draft was excessively negative and unfairly critical of much of the meat industry. I received confirmation that MHD shared the concerns of the editorial group by telephone around January 1996.

. . .

The overall impression given by Mr Swann’s draft was misleading because many readers would infer that all or most of the deficiencies listed were observed by HATs at all or most plants. This was not the case. Mr Swann’s draft was also misleading because he did not make clear that much of the
advice given by the HATs concerned recommendations regarding best practice rather than identifying statutory non-compliances. 2448

6.58 As a result of these perceived difficulties Mr Swann was asked to revise the text. He declined to do so. 2449 Mr Martin Cooke, who had written the white meat section of the report, then redrafted the red meat section at the request of Mr Soul. 2450

6.59 The final summary report of the HAT exercise was published in August 1996. 2451 In relation to SBO the report stated:

SBO removal in the slaughterhall was carried out in accordance with the legislation. 2452

6.60 Mr Swann considered that the final report:

omitted key recommendations considered of paramount importance by the original editorial group. 2453

Discussion

6.61 We have considered carefully the evidence in relation to the HAT survey and, in particular, that provided by Mr Swann and Mr Clark. So far as removal of SBO is concerned, we have found the evidence consistent with the results of the Eville & Jones survey (see paragraphs 3.35–3.36) and the subsequent SVS surveillance. Shortcomings were isolated rather than widespread.

6.62 We have concluded that Mr Soul, the Technical Group and Meat Hygiene Division acted fairly and objectively in concluding that Mr Swann’s draft report should be revised in order to present a more balanced picture; this was not an exercise of censorship.

6.63 In the revised report it was stated baldly that SBO removal in the slaughterhall was carried out in accordance with the legislation (see paragraph 6.59). This presented a fair summary of the overall position, although a more precise picture would have been presented had the words ‘in general’ been added.

Slaughterhouse surveillance

Hygiene standards during 1995

6.64 The standards of hygiene in slaughterhouses from January 1991 to March 1995, and the relationships among those monitoring the enforcement of meat hygiene regulations, are discussed in Chapter 5 of this volume. We will now briefly describe and discuss MAFF’s growing appreciation of deficiencies both in general

2448 S88A Soul paras 8–11
2449 S158 Swann p. 6 para. 12
2450 S88A Soul para. 12
2451 M22A tab 5
2452 M22A tab 5 p. 13
2453 S158 Swann p. 7 para. 15
meat hygiene and in SBO controls from the time of the introduction of the MHS until the end of 1995. During this period the Bovine Offal (Prohibition) Regulations, which had given effect to the SBO ban under food safety legislation, were revoked and replaced by the Specified Bovine Offal Order 1995, made under the Animal Health Act 1981. The overview at the beginning of this chapter noted that this Order introduced restrictions on the premises where the spinal cord could be removed from the vertebral column of cattle. We note here that the Order also introduced a ban on the removal of brains and eyeballs from bovine skulls other than for scientific or veterinary examination. We shall see later in this chapter how it was stressed that the concerns giving rise to the new Order did not affect the protection of human health. Its main purpose was to tighten the controls preventing bovine offal from reaching animal feed, a topic which is discussed in vol. 5: Animal Health, 1989–96.

6.65 MAFF’s appreciation of the standards of hygiene in slaughterhouses at the time of the establishment of the MHS was described by Mr McNeill:

It was made very clear that the major concern was the hygiene standards that prevailed at that time. That was the driving force. It was certainly made clear to me that that was one of the driving forces behind the creation of the new agency. 2454

... 

MR MATOVU: What were you told about compliance with meat hygiene regulations, beyond the statement that there was a general concern about hygiene?

MR McNEILL: I think it was made clear to me that it was very much a mixed bag: that some premises – some local authorities had maintained a high standard of performance in the premises and ensured high levels of compliance with the fresh meat regulations. On the other hand, others had been less successful in that area of work, but it was very much a mixed bag.

There were at that time available – I think there were broad indications of the HAS scores – the hygiene assessment system’s scores – that existed for the premises, and at that time I recollect it was something in the region of circa 30–35 per cent of premises had achieved a HAS score of about 65, which was considered the benchmark indicating compliance with the regulations. 2455

Instructions issued to the SVS about its new relationship with the MHS

6.66 SVS and MAFF staff involved with the slaughterhouse industry were given information on the relationship between the SVS and MHS in Animal Health Circular (AHC) 95/40. 2456 This explained that the MHS should notify the SVS Divisional Veterinary Officer (DVO) of any defect in compliance with the SBO

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2454 T37 p. 26
2455 T37 p. 82
2456 Animal Health Circulars (AHCs) were usually issued to Divisional Veterinary Officers (DVOs), Regional Veterinary Officers (RVOs) and other veterinary and technical staff within the Animal Health and Veterinary Divisions of MAFF
Regulations in slaughterhouses. After recapping on the various responsibilities and other measures in place on the removal and disposal of SBO, the latest INSET instructions set out the division of responsibilities between MAFF, animal health policy groups and the Veterinary Field Service (VFS). The instructions then set out the arrangements for SVS staff to work with MAFF staff in slaughterhouses and head-boning plants. The instructions for slaughterhouses included the following comments:

Introduction

. . . MHS staff are asked to ensure that SBO is separated, stained, stored and consigned correctly by the operators of slaughterhouses . . .

Responsibilities of SVS staff

DVOs must ensure each cattle slaughterhouse is visited every 2 months, the visit being arranged in collaboration with MHS staff. The purpose of the visit is to discuss with MHS staff the arrangements for disposal of SBO at that slaughterhouse. AHOs may make the visits. At the visit, the following activities must be undertaken:

a) SVS staff should ensure that MHS staff are familiar with the contents of Chapter 10 of the MHS Manual (Appendix 38) and determine from them whether any defects have occurred in the systems or operations intended to separate and dispose of SBO.

b) A tour of the premises should be made in the company of MHS staff, examining in particular:

i. The methods used to separate SBO from material intended for human consumption . .

ii. The methods use to stain SBO . .

iii. The methods used to store and consign SBO . .

c) SVS staff should discuss with MHS staff the checks that have been made to compare the output of SBO with the number of cattle being slaughtered.\textsuperscript{2457}

\textbf{6.67} In oral evidence Mr Peter Soul discussed the changing role of the SVS within slaughterhouses after the introduction of the MHS.

\textbf{MR WALKER:} . . . what did you see as the major change that was brought about when the Meat Hygiene Service became a national agency with national responsibility for meat inspection?

\textbf{MR SOUL:} Yes, in that respect the major change was that the State Veterinary Service took on the role of auditing the performance of the Meat Hygiene Service, compared with their role previously, which was more an advisory role to the then enforcement authority, the local authority.
MR WALKER: That advisory role had been carried out by the Veterinary Officers with special training in meat hygiene. What part did Veterinary Officers play once the National Meat Hygiene Service was in place and operating?

MR SOUL: It was carried out by the Veterinary Officers Meat Hygiene, but also by the RMHAs –

MR WALKER: Yes, they had functional management, as I understand it?

MR SOUL: Yes, yes. Over a period of time, the input from the veterinary officers reduced, and the role of the RMHAs became much more clearly an audit function. That took some time to bring completely into effect.2458

Inadequate staining of SBO during April/May 1995

6.68 As well as transferring to central government the enforcement of the ban on SBO in human food, the Bovine Offal (Prohibition) (Amendment) Regulations 19952459 implemented new staining requirements with effect from 1 April 1995. In order to address concerns of continuing problems with staining of SBO, MAFF issued AHC 95/74 on 19 May 1995.2460 This instituted a period of national surveillance whereby all slaughterhouses and head-boning plants that handled SBO would receive an unannounced visit by a MAFF VO. Details of the inadequacies and the MAFF visits can be found in vol. 5: Animal Health, 1989–96.

Concerns raised about the adequacy of spinal cord removal

6.69 On 22 May 1995 Mr Keith Meldrum, CVO, and others in MAFF met to discuss gelatine and, in particular, ‘whether skulls and vertebrae should be excluded from its production if it was to be used for ruminant feed’.2461 Two days later, Dr Cawthorne informed Mr Peter Hewson (Temporary Head of Meat Hygiene Veterinary Section, MAFF) and Mr Fleetwood of concerns raised at the meeting about the removal of spinal cord from vertebrae. He reported that:

... the CVO was anxious to ensure that spinal cord is properly removed from vertebrae during the slaughtering process, that meat inspectors should take particular note of this operation and prevent carcasses/parts of carcasses in which spinal cord was still in evidence in the vertebral column from entering the human/animal feed chains.2462

6.70 Dr Cawthorne noted that instructions issued to the MHS regarding SBO collection and disposal did not specifically focus on spinal cord removal, and suggested writing to Mr Phillip Corrigan (MHS Head of Operations) on this as a matter of priority. He also noted that:

Andrew Fleetwood is preparing an amendment to AHC 95/74 issued on 19 May to the effect that SVO staff in the course of their unannounced visits

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2458 T34 p. 77
2459 L2 tab 11C
2460 YB95/5.19/1.1
2461 YB95/5.24/1.1
2462 Ibid.
should take particular note on whether spinal cord was being properly removed and emphasise the need for this to be carried out completely to MHS staff. 2463

6.71 In the event, this instruction was issued on 8 August 1995 as part of new INSET instructions to the SVS, as discussed later in this chapter.

6.72 On 2 June 1995 Mr Hewson minuted Mr Corrigan about measures to be taken:

. . . to ensure that spinal cords are properly removed from the vertebral column of beef carcasses. Such removal is essential as vertebrae may be used in gelatin production which may in turn be incorporated in ruminant feed.

MHIs are ideally placed to check on proper removal as the Fresh Meat (Hygiene and Inspection) Regulations 1995 require carcass inspection to take place after carcass splitting. Although I do not believe the same Regulations can be used to withhold the health mark from carcasses which have some spinal cord remaining, MHIs should draw any incomplete removal to the attention of the operator and ensure that the carcass does not leave the premises without the proper removal of the spinal cord being carried out. It is obviously important that the same controls are carried out for condemned carcasses.

SVS staff will be emphasising the need for complete spinal cord removal when they make their visits to check on SBO handling. We would be grateful if you could, in addition, focus the attention of all your staff on their responsibilities in this area. 2464

6.73 Accordingly, on 5 June 1995 Mr Corrigan circulated to all MHIs and OVSs an MHS Information Note, entitled ‘Removal of bovine spinal cord’. The note stated:

. . . complete removal of the spinal cord from the vertebral column of beef carcasses is required. Such removal is essential as vertebrae may be used in gelatine production which may in turn be incorporated in ruminant feed.

MHIs should draw any incomplete removal to the attention of the operator and ensure that the carcass does not leave the premises without proper removal of the spinal cord. Equally it is important that the same controls are carried out for condemned carcasses.

I am advised SVS staff will be emphasising the need for complete spinal cord removal when they visit slaughterhouses to check on SBO handling. 2465

6.74 As we have noted (see paragraph 6.45) the MHS Check List subsequently stressed complete removal of the spinal cord.

6.75 The implications for MRM of incomplete removal of the spinal cord are discussed in the third main section of this chapter.
MHD seeks legal advice on health marking of carcasses in relation to SBO removal

6.76 On 3 July 1995 Mrs Sylvie Sadowski of the Meat Hygiene Division minuted Mr Forsyth of the MAFF Legal Department about the need to remove the spinal cord:

. . . The Fresh Meat Regulations require inspection of the carcase after splitting and MHS staff have been asked to be particularly vigilant that all of the spinal cord has been removed. However we would be grateful for your advice as to whether the MHS can refuse to health mark a carcase from which the spinal cord has not been properly removed.

Regulation 11 of the Fresh Meat Regulations requires that only meat which has been passed as fit for human consumption should be marked. However Schedule 10 does not list contamination with SBO as a reason for unfitness. We seem to rely on the Bovine Offal Regulations which defines excluded matter as any part of the animal which does not consist of or contain any SBO. As I understand it, any part of the animal which contains SBO would be deemed to be SBO and dealt with under the Bovine Offal Regulations (1994 amendment SI 1994/2628). However as the Bovine Offal Regulations prohibits the sale of SBO for human consumption, it would seem reasonable that a bovine health mark should not be applied to any carcase until the inspector is satisfied that all SBO has been properly removed.

Do you consider that ‘traces of SBO’ (or some other suitable expression) should be included under Schedule 10 as an indication of unfitness?

6.77 Mr Forsyth replied on 14 July:

Although it is true that Schedule 10 of the Fresh Meat Regulations does not expressly list contamination with SBO as a reason for unfitness for human consumption, I note that paragraph 9 is sufficiently widely drafted to cover such contamination.

It is therefore arguable that the proper removal of the spinal cord is necessary to enable the OVS to be satisfied that a carcase should not be rejected under paragraph 9.

I can of course include a specific reference to SBO in Schedule 10 when I come to draft the amendments to the Regulations in the near future.

6.78 On 31 July 1995 Mr Corrigan followed up the information note of 5 June advising that recent legal advice from MAFF confirmed that, under the 1995 Regulations, the presence of residual spinal cord provided a reason for not health marking bovine carcasses.
Dr Kimberlin proposes a weight audit to monitor SBO removal at slaughterhouses

6.79 Meanwhile, further consideration had been given in June to the removal of spinal cords. On 27 June 1995, Dr Richard Kimberlin, an independent TSE consultant and member of SEAC, wrote to Mr Eddy, making suggestions for improving the monitoring of the SBO Regulations at slaughterhouses, and focusing particularly on monitoring brain and spinal cord removal, which were considerably more infective than other tissues. He suggested weighing the spinal cord material removed from carcasses as a way of ensuring their thorough removal at the slaughterhouse.

6.80 Mr Fleetwood considered that Dr Kimberlin’s suggestion of a separate weight audit for monitoring removal of spinal cord was not necessary. In a minute of 30 June 1995 to Dr Cawthorne, which was copied to Mr Eddy and others in MAFF, he argued against Dr Kimberlin’s suggestion and noted:

. . . spinal cord is the one bit of SBO about which we can obtain an absolute guarantee of adequate removal under existing arrangements. The reason for this is that the MHS meat inspector is required to inspect the split half of each bovine carcass before it receives the health mark. It is a simple matter, during this inspection, to check whether the spinal cord has been removed properly. Provided the MHS does its job properly, we can guarantee that each carcass receives a check to ensure that the cord has been removed.

6.81 Having seen a copy of Mr Fleetwood’s minute, Mr Eddy considered that MAFF should not dismiss Dr Kimberlin’s suggestions. In a minute to Dr Cawthorne on 4 July 1995 he explained that Dr Kimberlin had told him that the BSE subgroup of the EU Scientific Veterinary Committee (ScVC) was seeking an audit approach as a means of demonstrating that the SBO ban was working. He continued:

I think that we need to be very clear that, not only are we confident that the system is working but that we have arranged things in such a way that we can demonstrate to an increasingly sceptical audience in Brussels, that it is working. Only if we can achieve the latter will we be able to continue to secure the present arrangements which allow British beef to be exported.

. . .

In order to be able to demonstrate that there is no risk to public or indeed to animal health, particularly I suspect the latter, it needs to be shown that all of those spinal cords are properly treated as SBOs and can’t end up for rendering or worse for fat reclamation . . . I do get the very strong feeling that he is genuinely trying to help here and that we underestimate at our peril the concern of the Scientific Veterinary Committee about the current situation and the current effectiveness of the SBO controls in the UK.
Report from the first round of SVS surveillance visits to slaughterhouses and head-boning plants between 31 May and 23 June 1995

6.82 Mr Fleetwood minuted Mr Meldrum and others in MAFF on 4 July with a summary of the results from the SVS surveillance visits to slaughterhouses and head-boning plants undertaken between 31 May 1995 and 23 June 1995. He stated that the purpose of the visits had been:

To examine the systems used to separate SBO from other material (this includes separation from the carcass, storage and despatch from the premises) and the systems used to stain SBO.\textsuperscript{2474}

6.83 He reported that of the 392 slaughterhouses visited 55 were not separating SBO correctly, 33 were not applying the correct stain properly and 83 were not applying any stain. However, with one exception, there had been no instances of failures to separate SBO from material intended for human consumption.

Mr Fleetwood concluded:

The overall impression of this snapshot of the industry is that there is widespread and flagrant infringement of the regulations requiring staining of SBO. Insofar as this may reflect the general attitude of the industry to controls on SBO, it is of concern. Although the problems with separation are less extensive, there are grounds for suspecting that the highest risk tissues (brain and spinal cord) have been mixed with other by products and processed for animal consumption. The destination of some of the by-products also process fat into grade 2 tallow and although there is no direct evidence, it is possible that SBO may have been incorporated in products rendered into high grade tallow and subsequently used for human consumption. Apart from these specific problems, a careless attitude to separation and disposal seems to be prevalent and it is probably leading to accidents during disposal.

Reports from the field indicate that most if not all of the problems can be readily corrected, and measures have already been taken to ensure that this happens. There is every reason to believe that matters can be tidied up quickly, given sufficient enforcement activity and a change of attitude by the industry.\textsuperscript{2475}

6.84 Two days after receiving this report, Mr Eddy raised further issues with Mr Meldrum.\textsuperscript{2476} In addition to highlighting the staining problems as a cause for concern, Mr Eddy drew attention to possible problems of contamination of products used for human consumption. He sought Mr Meldrum’s views on proposed actions to take in response to the survey:

There are basically two issues to be considered. First, we need to decide what action should be taken to put right the specific problems identified and to ensure that prosecutions can be taken if the situation in the plants is not

\textsuperscript{2474} YB95/7.04/3.1
\textsuperscript{2475} YB95/7.04/3.3
\textsuperscript{2476} YB95/7.08/1.1–1.13. His minute was copied to Mr Haddon, Mr K Taylor, Dr Cawthorne, Mrs Brown, Mr D Taylor, Mr Fleetwood and others.
rectified. Secondly, we need to make sure that the enforcement situation is tightened up: that plant operators have a proper understanding of what their legal obligations are, and that the Meat Hygiene Service have systems in place to ensure they are properly enforced. To address these issues, we recommend that an urgent meeting should be arranged with the MHS to discuss a strategy for correcting the obvious errors quickly and putting in place a programme to ensure education of the plant operators and effective operation of procedures by the MHS. 2477

6.85 Further, Mr Eddy considered that:

It may also be necessary, because of the public health implications, to send SVS staff into slaughterhouses every few months to audit the arrangements, at least until we are satisfied that they are being properly applied and enforced by the MHS. 2478

6.86 On 11 July Mr Iain Crawford, the Director of VFS, minuted Mr Meldrum, commenting on the surveillance report and Mr Eddy’s proposed actions. He expressed concern that ‘the picture painted in this report differs to the extent that it does from reports previously received’. He considered it essential for the RVOs to make a detailed investigation of why there was such a difference. He proposed that a possible explanation for the difference was that the report was based on unannounced visits by Veterinary Officers (VOs) who, in comparison with Animal Health Officers (AHOs), ‘may have found deficiencies which were not present for announced visits and were also able to ask more searching questions’. Mr Crawford noted suggestions from SVS Field Staff that MHS staff were not fully aware of SBO requirements, and that such awareness was essential ‘in view of their front line role’. He endorsed Mr Eddy’s suggestion of a meeting with senior MHS staff. 2479

6.87 On the same day, Dr Cawthorne sent an Animal Health Circular to DVOs requesting immediate submission to SVS Headquarters of completed reports from follow-up visits to slaughterhouses and head-boning plants where problems had been identified in the May/June survey. Reports from any remaining follow-up visits were requested to be sent on a weekly basis. 2480

MAFF Ministers learn the results of the May/June surveillance of slaughterhouses

6.88 On 13 July 1995 Mr Packer put forward a submission on the results of the SVS surveillance of the SBO controls in May/June to Mr Douglas Hogg (the new Minister of Agriculture2481) and to Mrs Angela Browning (Parliamentary Secretary, MAFF2482). He also attached a submission reporting on the consultation on the proposed Specified Bovine Offal Order. 2483

6.89 His covering minute noted that:
I think the papers make a convincing case to the effect that measures already in place properly protect human health. However, taken together they seem to me to present real problems of presentation. It may be regarded as unfortunate, for example, to be continuing to introduce more stringent requirements about the treatment of bovine skulls. We do, of course, know now, which we did not know previously, that a very small amount of infected brain can bring about the disease if fed orally, but even so this explanation might not seem wholly convincing to some who might consider the situation should have been properly grasped long since. Equally, the unsatisfactory treatment of specified bovine offal in slaughterhouses reflects an unfortunate state of affairs which has presumably existed for many years. We must expect questions on why we allowed this situation to persist for so long.\textsuperscript{2484}

6.90 During oral evidence Mr Douglas Hogg was asked what his explanation was for the state of affairs as outlined by Mr Packer. He responded:

I know that until the Meat Hygiene Service was set up, it was the responsibility of local authorities acting through the Environmental Health Officers. We set up . . . the Meat Hygiene Service in April, I think it was, 1995, and it was only at that point that we really began to get a proper fix on what was happening in the slaughterhouses. I am bound to say that looking back, it does not surprise me that the Environmental Health Officers were not policing it as effectively as they should have done, but we only got a fix on that when the Meat Hygiene Service was established.\textsuperscript{2485}

6.91 When asked why it did not surprise him that Environmental Health Officers were not enforcing the regulations, he answered:

Because they answer to many separate authorities and do not answer to one . . . Giving a formal instruction, which was under the framework agreement . . . is a very rare thing because it is a re-ordering of priorities. I could do that when we had the Meat Hygiene Service. It was utterly impossible to do it when the Environmental Health Officer is responsible to the Chief Executive of many a council, so there were advantages.\textsuperscript{2486}

6.92 The submission put forward by Mr Packer to Mr Hogg recommended that:

Urgent action, already in hand, should be pursued to rectify failures in separation and staining of SBOs in slaughterhouses, with prosecutions if necessary; action is also in hand to improve enforcement action. It is recommended that the results of the surveillance should be made publicly available.\textsuperscript{2487}

6.93 It also drew attention to the implications of the observed failures of the SBO controls for BABs.\textsuperscript{2488} In particular the submission stated:

Since there is scientific evidence that BSE can be transmitted to both calves and mice experimentally by consumption of very small quantities of infected

\textsuperscript{2484} YB95/7.13/7.2
\textsuperscript{2485} T95 p. 40
\textsuperscript{2486} T95 pp. 40–41
\textsuperscript{2487} YB95/7.13/7.9
\textsuperscript{2488} BABs: cattle born after the (ruminant feed) ban but BSE-positive
material, failures at the slaughterhouse are likely to show through in continuing cases of BSE in animals born after the introduction, in July 1988, of the ban on feeding ruminant protein to ruminants.2489

6.94 Comments were also made on the implications of the survey results for human health. In particular:

The circumstantial evidence that there might have been indirect contamination of products for human consumption, as a result of material being included in rendering for high grade tallow should not be overstated. Even if this were to be the case (which we cannot prove) the processing itself would be effective in destroying any contamination. The implications of the failures in the controls are therefore for animal health, not human health. Ministers have based the reassurance they have provided to consumers on the fact that the UK legislation effectively prevents any potentially infective material from entering the human food chain. It is therefore essential that any potential problems of control in this area are resolved immediately.2490

6.95 On 18 July 1995 Mr Hogg held a meeting with Mrs Browning, Mr Packer, Mr Eddy, Mr Meldrum, Mr Martin Haddon (Animal Health Group), Mr Fleetwood and several other MAFF officials to discuss the submission.2491 The note of the meeting recorded that, with regard to the deficiencies in the handling of SBO in slaughterhouses, Mr Meldrum had reiterated that ‘there was no public health problem, there was no question of SBOs entering the human food-chain, the risk was of cross-contamination of animal feed’. Mr Hogg agreed that unannounced visits to slaughterhouses to check compliance should continue.

6.96 At the meeting Mr Hogg also agreed to announce the results of the survey of slaughterhouses by way of a Parliamentary Answer along with ‘a low-key background press briefing’ by Mr Meldrum. As part of the discussion on handling at the meeting, the note recorded that ‘it was important that the Department of Health were fully in the picture and that the CMO would if necessary reiterate that there was no public health implications’.2492

6.97 The next day MAFF issued a press release on the new SBO Order and the survey results. Entitled ‘Tightening the rules on BSE’, it contained the text of a Parliamentary Answer from Mr Hogg. It opened with the following remarks:

A strengthening of the rules for preventing tissue potentially infected with the BSE agent from entering the cattle feed chain was announced today by Agriculture Minister Douglas Hogg. The Ministry has also indicated that there is room for improvement in the application of the current rules in some slaughterhouses and further action is under way to deal with this.

Mr Hogg emphasised that there were no implications for the human feed chain in these findings and that measures to protect human health were found to be working effectively in all cases.2493
Mr Hogg concluded the Parliamentary Answer with the following:

Although these lapses in our animal health control system are unsatisfactory, consumers have no cause for alarm. I am satisfied that these findings have no implications for human health and that measures to ensure that no infective material enters the human food chain are working effectively.  

Discussion of the first round of special surveillance

The fact that no shortcomings were reported in relation to the operation of removing SBO from the carcass was in line with earlier SVS surveillance reports and gave a falsely reassuring picture. We note, however, that prior to this first round of special surveillance no instructions were given to pay particular attention to the removal of spinal cord.

The reports of failures to remove spinal cord that were a feature of the second and subsequent rounds of special surveillance resulted, we believe, from the focusing of attention on the importance of the removal of spinal cord. Even before the new inset instructions were issued on 8 August (see paragraphs 6.71 and 6.119), we have little doubt that concerns that were being expressed about the removal of spinal cord would have led to the importance of this being drawn to the attention of the members of the VFS who were carrying out slaughterhouse surveillance.

MAFF and the MHS meet to discuss surveillance results on SBO controls

On 18 July 1995 Mr Meldrum, Mr Crawford, Mr Haddon, Mr Kevin Taylor (Assistant CVO), Dr Cawthorne, Mr David Taylor (Veterinary Head of Section, Red Meat Hygiene Section) and Mr Eddy met with Mr McNeill and Mr Corrigan of the MHS to discuss SBO controls in licensed fresh meat premises. They considered the recent results from the SVS survey of slaughterhouses and the MHS HAT visits:

Those visits indicated that both separation and staining of SBOs was lacking at a significant number of premises. These findings have been confirmed at HAT visits made to a smaller sample of slaughterhouses by the MHS. Neither of these surveys found any cause for public health concern in relation to SBOs.

It was agreed that where an SVS visit had found an unsatisfactory situation, the following course of action would be followed:

a) A second visit would be made and any deficiencies would be confirmed in writing to the MHS Head of Operations copied to the MHS Regional Manager.

b) The Head of Operations would then confirm the deficiencies to the management of the premises, copied to the OVS. This letter would need clearing by Legal as it would formally warn of a third unannounced visit and threaten a prosecution if deficiencies remained.
c) The third visit would be made by an RMHA or VO accompanied by a POVS. If serious deficiencies remained details of non-compliance would be noted and Investigation Branch would be requested to take the case on.

d) If Investigation Branch recommended prosecution, Ministers would need to be consulted prior to any further action being taken. 2496

6.103 Mr Fleetwood referred to Mr Hewson’s minute in a statement to the Inquiry:

I see also from Mr. Hewson’s minute of 18 July 1995 that visits to slaughterhouses by hygiene audit teams (HAT) carried out by staff of the Meat Hygiene Service were discussed at that meeting. I do not believe I was previously aware of the HAT programme. Certainly, I do not recall there being any consistent flow of information back to me from the Meat Hygiene Service about their own findings when inspecting slaughterhouses. The information flow seemed to be largely one way – with MAFF reporting to the Meat Hygiene Service the findings of checks carried out by SVS staff. 2497

Preliminary results from the second round of SVS surveillance visits to slaughterhouses and head-boning plants during July 1995

6.104 The SVS followed the May/June survey with a second round of visits to slaughterhouses during July 1995. Mr Fleetwood reported the preliminary results to Mr Corrigan of the MHS and to others in MAFF on 28 July 1995. 2498 Various problems were identified by the visits, but in particular Mr Fleetwood identified two operators that had not properly removed SBO from material for human consumption. At the first operator, spinal cord had been seen in one carcass, and tonsils were not properly removed from heads. At the second operator, brains had been removed from heads, and then ‘brought back into the human consumption part of the factory for vacuum packing’. 2499 Mr Fleetwood said that these two operators:

...are posing a risk of contamination of material for human consumption and the problems must be corrected immediately by whatever means necessary. SVS staff gave advice at the time of their visit, but we must know if that advice has been acted on. We would be grateful if you would assign immediate priority to these premises and keep us informed of developments. 2500

6.105 Mr Fleetwood advised Mr Corrigan that the MHS should take the lead on the follow-up visits, with SVS staff in attendance to report on the outcome. Mr Fleetwood also advised that visits should be undertaken so evidence could be collected for a prosecution, if necessary. 2501

6.106 The results from these SVS surveillance visits to slaughterhouses in relation to SBO removal between July 1995 and March 1996 are given at Annex A of this chapter.

2496 YB95/7.18/5.2
2497 S127 Fleetwood para. 95
2498 YB95/7.28/4.1–4.3
2499 YB95/7.28/4.2
2500 Ibid.
2501 YB95/7.28/4.3
MAFF Ministers learn the preliminary results from the second round of SVS surveillance visits to slaughterhouses

6.107 On 1 August Mr Eddy minuted Mrs Browning and other MAFF Ministers regarding the preliminary results from the second round of SVS surveillance visits. Mr Eddy reminded Mrs Browning of the assurances MAFF had made in the news release issued after the first round of visits, in particular that the problems found ‘had no implications for human health, because none of the lapses could have resulted in infective material entering the human food chain’ 2502. He drew attention to the two operators who had been found to be failing to separate SBO properly from material for human consumption (see paragraph 6.104). He advised that the SVS was undertaking follow-up visits to these two operators to investigate further, and continued:

Farming News on 28 July reported on the deficiencies mentioned in the Parliamentary Answer, suggesting that if potentially contaminated material had been allowed to leak into the animal feed chain, then it was likely that the same thing was happening in the human food chain. The two instances we have now found mean that we cannot respond to that article in such robust terms as we could have done on the basis of the first round of visits.

Subject to further clarification on the problem at the two plants we can no longer maintain publicly that our visits to slaughterhouses have shown no implications for human health. I would advise against an immediate response to Farming News. We need to investigate the two reports in greater detail to clarify whether the circumstances were such as to suggest there was a genuine risk to human health. 2503

6.108 In a statement to the Inquiry, Mr Hogg said:

At first sight these were serious problems which if undetected could have led to SBOs entering the human food chain, although this was by no means clear. SVS staff gave on the spot advice to the operators to correct the problem, and both plants were to be visited again. I was concerned that there was a potential risk of SBOs entering the human food chain and was determined to continue promoting the proper enforcement of SBO controls. 2504

6.109 On 2 August 1995, Mrs Elizabeth Ratcliffe, Private Secretary to Mrs Browning, informed Mr Eddy that ‘the Parliamentary Secretary has commented that immediate action is necessary to correct these problems’. 2505

6.110 On 7 August Mr Eddy updated Mrs Browning on action taken:

The results of all the unsatisfactory visits have been taken up with the Meat Hygiene Service, who are responsible for enforcement, to take immediate action to get the various problems corrected. We asked for top priority to be given to immediate correction of the problems in the small minority of slaughterhouses where there was a risk of contamination of material for

2502 YB95/8.01/7.1
2503 YB95/8.01/7.2
2504 S379 Hogg para. 18
2505 YB95/8.1/9.1 (manuscript note)
human consumption. This has been done, and those practices have ceased.2506

On the minute Mrs Browning’s Private Secretary wrote on behalf of Mrs Browning that she wanted to be alerted to any problems that arose in relation to this or any other BSE-related matter. 2507

6.111 Mr Eddy had been advised on 4 August of Mr Hogg’s concerns about the preliminary results from the second round of slaughterhouse visits. Mr Strang (Principal Private Secretary to Mr Hogg) noted that in particular ‘the case involving spinal cord could be very serious’. 2508 He advised that Mr Hogg had agreed that MAFF should pursue the approach as outlined by Mr Carden (Grade 2 Head of MAFF’s Food Safety Directorate):

i. tightening up the rules whenever there was evidence that action was needed;

ii. tightening up enforcement;

iii. making prosecutions when companies repeatedly infringed the legislation.

iv. The Minister commented that we should certainly not shrink from (iii). 2509

MAFF notifies DH of the preliminary results from the second round of SVS surveillance visits to slaughterhouses

6.112 DH was notified of the surveillance results on 3 August 1995 when Mr Eddy minuted Mr Charles Lister (responsible in DH for administrative aspects of BSE). 2510 Mr Eddy advised that as a result of the observed failures of SBO separation ‘there has been an immediate crack down, and the problems found have been put right’. He continued:

We can no longer be as robust as we were in the press notice about no infective material entering the human food chain, but the problems are not such as to warrant a special announcement or any special new measures other than the immediate action that was taken at the plants concerned. We are considering how the situation should be handled. I am inclined to await the results from the third round of unannounced visits, which should be with us in the Autumn, before advising on any further announcements. I do not see it as necessary to issue press statements at every stage in what is a three stage process. I would welcome DH’s views. 2511

6.113 The next day Mr Lister copied Mr Eddy’s letter to Dr Ailsa Wight (Health Aspects of the Environment and Food Medical Division, DH), stating that Dr Calman and DH Ministers needed to be briefed on the findings. He said:

2506 YB95/8.7/7.2
2507 YB95/8.7/7.1
2508 YB95/8.04/2.1
2509 YB95/8.04/2.1
2510 YB95/8.04/4.2
2511 YB95/8.04/4.2–4.3
SEAC will clearly need to discuss the implications at the next meeting, but it comes down, as always, to the need for adequate policing of slaughterhouse practices. Once all the visits are completed – there is a third series to come in the Autumn – we will need to consider how the results affect our assurance to the public that, following the SBO ban, no potentially infective material can enter the human food chain.\(^{2512}\)

6.114 On 25 August 1995 Mr Meldrum wrote to Dr Jeremy Metters, Deputy CMO, regarding Mr Eddy’s letter to Mr Lister. Mr Meldrum said that in his view Mr Eddy painted a ‘more alarmist picture than is justified by the circumstances’. Although many faults had been found, ‘there was no risk to public health in any of the three cases because each was spotted and corrected’. He said:

> It is, of course, true that there may be other undetected cases where SBO is not properly removed and destroyed, but this has always been the case and is still the case now. The argument for strict enforcement is clear, the Meat Hygiene Service is aware of it, and the new SBO legislation which has just been introduced, although primarily directed to protecting the health of cattle, should simplify their task in some respects. The Meat Hygiene Service has issued specific and detailed instructions to its staff on the checks that must be carried out to ensure compliance with our legislation.\(^{2513}\)

6.115 Dr Metters replied on 1 September that it was ‘helpful to have this amplification’ and that, as Mr Meldrum’s letter had noted, ‘this strengthens the case for strict enforcement by the Meat Hygiene Service’. Dr Metters also noted that there were plans to report the latest results at SEAC’s next meeting and that ‘both our Departments will benefit from having an up-to-date comment from SEAC’.\(^{2514}\)

6.116 Dr Calman received copies of the correspondence between Dr Metters and the CVO. In a statement to the Inquiry he noted:

> The critical issue was whether the three instances set out above were isolated incidents, or whether they were indicative of a wider problem. That question would only be fully answered by a careful examination of the results of the further round of unannounced visits.\(^{2515}\)

**MAFF’s consideration of further results from the second round of SVS surveillance visits**

6.117 On 3 August Mr Fleetwood updated others in MAFF on the latest results from the second round of visits.\(^{2516}\) He noted problems of SBO separation in 13 of the 166 plants visited, and commented:

> As regards separation, most of the recurring problems concern mixing of SBO with other unfit material. However, there was evidence that SBO was not being separated adequately from material for human consumption at three premises.\(^{2517}\)
6.118 We have described the problems at two of these premises above in paragraph 6.104. The minute noted that two slaughterhouses, which had previously been found to not be removing SBO adequately, had now corrected their processes. However, the problems at a third plant were described as follows:

The inspecting VO had found that a new slaughterhouse hand was not adequately separating tonsil from the head. All the heads in the plant were examined by the VO and all the tonsil tissue seen to be removed. The OVS and plant operator were informed of the problem and a follow up visit by the VO revealed that the problem has been corrected.\(^\text{2518}\)

6.119 On 8 August 1995 MAFF circulated AHC 95/119 to DVOs and other SVS field staff, providing instructions for the visits to be undertaken to all plants where deficiencies had been discovered during the second round of visits.\(^\text{2519}\) SVS staff were instructed to undertake follow-up visits in respect of SBO with MHS staff. On the same day, MAFF also issued INSET 25A under cover of AHC 95/118.\(^\text{2520}\) Section D5 of the new INSET explained that SVS staff, in the course of their routine visits to slaughterhouses, should examine among other things:

. . . the methods used to separate SBO from other carcass material. Particular attention should be paid to ensure that spinal cord is completely removed from the vertebral column. Checks can be made both on the slaughter line and in the chiller room.\(^\text{2521}\)

6.120 Also on 8 August, Mr Fleetwood wrote to Mr Soul of the MHS, enclosing AHC /95/119 and noting:

. . . we need to clarify exactly what action is and will be taken by the MHS in respect of those premises which have recorded unsatisfactory results. This is particularly important in the light of the fact that Ministers are expecting a robust and co-ordinated response and have indicated to us that they do not want the MHS to shrink from taking prosecutions against those companies who do not put their house in order within a reasonable time.

6.121 Mr Fleetwood included a table in his minute that recorded the second round visit results on separation of SBO at 214 slaughterhouses as ‘All OK’. Fifteen were recorded as ‘Not OK’. He noted that:

as problems with separation of SBO are likely to have more serious consequences than problems with staining, and as the number of premises involved is small, I think it would be advisable for the MHS to target these premises in the strongest possible manner. They may well be potential candidates for prosecution, along with those operators who have refused to obtain the correct stain.\(^\text{2522}\)

\(^{2518}\) Ibid.
\(^{2519}\) YB95/8.06/1.1
\(^{2520}\) YB95/8.9/8.1–8.4
\(^{2521}\) ME9 tab 8 p.75
\(^{2522}\) YB95/8.06/2.2
Circulation within MAFF and MHS of the final results from the second round of SVS surveillance visits

6.122 On 22 August 1995 Dr Cawthorne sent Mr Meldrum, Mr K Taylor and others in MAFF and the MHS a summary of the final results from the second round of SVS visits to slaughterhouses. Dr Cawthorne reported that of the 272 premises visited there were problems in relation to SBO controls at 74 plants, while controls were satisfactory at the other 198. Of the 74 plants with problems there was inadequate separation of SBO in five, ineffective staining in 59 and inadequate separation and staining in 10. He also reported that the three plants identified with SBO separation problems in the preliminary results circulated earlier that month had corrected those problems.

6.123 Dr Cawthorne also reported that Mr Corrigan and MHS Regional Managers had undertaken to provide a statement identifying for each of the 74 plants where inadequate separation and staining was detected:

. . . to identity whether (a) the inadequacies had been corrected, (b) if they have not been corrected, why not, identifying mitigating circumstances, and (c) identify plants which were candidates for prosecution.

The aim was to have this information available in time for the next SEAC meeting.

6.124 We described in the first main section of this chapter the circulation within MAFF on 23 and 24 August 1995 of the Eville & Jones report, and the comments that it evoked.

SEAC discusses the results from the SVS surveillance reports

6.125 On 8 September 1995 SEAC discussed the results of SVS visits to slaughterhouses. The meeting was recorded in Mr Eddy’s minute of 11 September 1995 to Mr Meldrum:

Mr Fleetwood gave a very clear and convincing exposition of the findings from the final round of intensive visits. The Committee were reassured by the progress from the first round of visits and the fact that we were continuing to visit on an unannounced basis. They accepted that we now had a grip on this but the point was made that it would have been better to have done this five years ago and we will clearly have major problems with the Committee unless we can give them constant reassurance that we are keeping up the pressure and that there has been no back sliding.

6.126 However, Mr Eddy also noted that the Committee wanted to know:

What happens to any spinal cord removed as a remedial measure by the abattoir staff or inspectorate in the cold store or elsewhere in the meat plant.
where sides are inspected for the health stamp? There was concern that these spinal cords might not be specially transported back to be reunited with the other spinal cords and could possibly end up in scraps which would go for animal feed.\footnote{YB95/9.11/2.1}

\section*{6.127} Following his attendance at the SEAC meeting, Mr Fleetwood wrote to Mr Corrigan on 18 September 1995, noting that SEAC, in ‘welcoming the progress made’, asked that it be ‘sustained by the MHS and the SVS’. He also mentioned SEAC’s concern about fragments of spinal cord being disposed of incorrectly, and said that SEAC ‘asked that the MHS should draw this to the attention of their staff in individual plants, asking them to ensure that all such fragments are collected together and included in the weight audit’.\footnote{YB95/9.18/1.1}

\section*{6.128} On 20 September 1995 Mr Corrigan sent a memorandum to all MHS staff echoing Mr Fleetwood’s minute.\footnote{YB95/9.20/1.1}

\section*{6.129} Mr Corrigan sent a further memorandum to all MHS Regional Managers on 26 September 1995, noting that the SVS second round of visits had been completed and that Mr Corrigan had been advised that any outstanding problems had been rectified. He reported that the SVS had been instructed to carry out further unannounced visits and stressed the necessity of paying attention to the SBO controls.\footnote{YB95/9.26/2.1}

\section*{6.130} We described in the first main section of this chapter the meeting of 5 October 1995 at which it was agreed that Mr Swann would act as editor for the section of the HAT report dealing with red meat audit.

\section*{Report from the third round of SVS surveillance visits to slaughterhouses and other premises dealing with SBO during August/September 1995}

\section*{6.131} On 6 October 1995 Mr Fleetwood minuted Dr Cawthorne, with copies to others in MAFF and the MHS, regarding the results of SVS surveillance visits undertaken during August/September 1995. Mr Fleetwood recorded that 14 of the 193 slaughterhouses visited had revealed deficiencies in relation to ‘identification, removal or separation of SBO’, and 48 per cent of total visits to these premises had been unsatisfactory. He noted, ‘The results show a less than satisfactory outcome. I am particularly disappointed with the high failure rate at slaughterhouses, especially in view of the recent efforts made by the SVS.’\footnote{YB95/10.6/1.1–1.4}

\section*{6.132} Mr Fleetwood considered that the results from the slaughterhouse visits raised questions about the MHS:

\begin{quote}
Our findings in slaughterhouses also raise questions about the MHS. I do not believe that we should find ourselves in the position of detecting a 48\% failure rate on random inspections when MHS enforcement staff are in these premises on a regular basis. The information gathered by the field would
\end{quote}
allow performance indicators to be set down . . . For instance, we could set an indicator of no more than 1% failure rate on SVS routine inspections.2532

6.133 On 12 October Mr Fleetwood minuted Dr Cawthorne regarding the outcome of his enquiries into possible reasons for the unsatisfactory results at slaughterhouses. He reported that several VOs had found evidence of inadequate spinal cord removal, one VO reporting ‘6-9 inch lengths in some cases’.2533 Mr Fleetwood noted that the ‘problems with spinal cord are potentially serious and it is clear that our staff are not overemphasising the problems in this respect’.2534

6.134 Mr Eddy, who had received a copy of the minute, commented on the observations of Mr Fleetwood in a statement to the Inquiry:

With the benefit of hindsight the fact that these allegations were made suggests that those directly involved in enforcement work in slaughterhouses may have been applying a degree of tolerance of minor failings which I do not believe was ever asked of them in their instructions.2535

6.135 On 13 October 1995 Dr Cawthorne updated Ministers on the results from the third round of SVS surveillance. He noted that ‘no problems were identified that could present a public health hazard’ but that the results were nevertheless ‘disappointing’. He continued:

Some of the failures with separation reflect genuine, continuing problems and the MHS will be contacting Investigation Branch with a view to obtaining evidence to support a prosecution. However, no prosecution would be taken without the consent of Ministers because such action could undermine the validity of our BSE controls.

. . .

The CVO has expressed his concern over these results to MHS senior management in a meeting earlier this week who, in turn, have acknowledged that faults by plant operators are still evident though not on the scale recorded earlier in the year and not always of the same degree of concern. They have instituted a programme of management checks on their own staff to ensure full compliance and included in this package, disciplinary or enforcement action where this is considered necessary.2536

6.136 On 20 October 1995 Mr Soul wrote to MHS Regional Managers informing them that SVS staff were continuing to find cases of beef sides where the health mark had been applied, and yet pieces of spinal cord were still present in the spinal canal. Mr Soul asked all plant-based staff to be made aware that they must not permit the health mark to be applied until all the spinal cord had been removed.2537 A schedule of the observed failures of spinal cord removal up to 1 March 1996 is attached at Annex A. There was some delay between local reporting of such failures and their coordination and reporting at national level.
Mr Meldrum writes to Dr Calman about the observed failures to remove spinal cord from bovine carcasses

6.137 On 23 October 1995 Mr Meldrum wrote to Dr Calman enclosing a proposed reply to a Parliamentary Question from Mr Martyn Jones (Labour MP, Clwyd South West) on the possible entry of SBO into the human food chain. He reported that the findings of the SVS staff’s bi-monthly audit had shown four cases where spinal cord was found attached to carcasses. He commented that ‘in all cases, an unannounced visit, approximately a fortnight later, showed that spinal cord was being removed correctly and in its entirety’. He continued:

These findings are disappointing and I am shortly to have a meeting with the industry to impress upon them the importance of compliance with the requirement to fully separate and dispose of SBO. We can never guarantee that bone tunnels will not occur when the carcasses are split and that pieces of spinal cord will then remain hidden from view. It is quite clear that our veterinary staff are alert to this particular aspect of SBO separation and are identifying a small number of cases where residual cord is being found.

6.138 Though measures were being taken to correct the problem, Mr Meldrum considered that such failures were inevitable to a certain degree as ‘no system operated by humans can deliver at 100% efficiency all the time’.

6.139 In the Written Answer to Mr Jones’s Parliamentary Question, which was published the next day, Mrs Browning stated:

Since 1 April 1995 the Meat Hygiene Service has been responsible for enforcement of the controls. We know of no instances where SBOs have entered the human food chain. We are aware of four cases where small amounts of SBO had been left attached to carcasses after dressing but these were properly removed before the carcasses left the premises.

6.140 In a statement to the Inquiry, Sir Kenneth Calman said that Mr Meldrum’s opinion that the findings were ‘disappointing’ had understated the importance of the information. He then described his concern at receiving Mr Meldrum’s letter:

Since the ban on both the human consumption or use of SBOs, I and the Department of Health and its advisers were relying on the fact that a system of inspections to ensure this ban was observed in practice had been instituted by MAFF. Notwithstanding the fact that primary responsibility for compliance with the relevant legislation lay with those owning and operating slaughterhouses, cutting rooms and cold stores, the Department of Health and others including SEAC had always proceeded, (after the introduction of the legislation), on the basis that such bans were both in place and effective. Enforcement of all legislation relating to animal health fell within MAFF’s jurisdiction.

My concerns related to the fact that until the end of October 1995 I, the Department of Health, and others including SEAC had repeatedly made
statements in relation to the consumption of beef and its risks to human health and BSE based upon the fact that: –

(1) Legislative bans on potentially infected tissue were in place and effective

(2) There was currently no scientific evidence of a link between meat eating and the development of CJD.2541

6.141 Mr Meldrum discussed Dr Calman’s statement in his oral evidence to the Inquiry:

I was particularly concerned at the suggestions and the suggestions came really from elsewhere that in 1994 and 1995 there was a lack of communication between ourselves and the Department of Health. So far as I am aware the major submissions to Ministers leading up to the change in the controls on SBOs were copied to the Department of Health. So that they were aware of the problems particularly in August 1994 and subsequently I attempted to keep Sir Kenneth informed.

Lastly, I would just say I was a little bit surprised when he expressed his surprise in his statement about the letter I wrote to him on 23 October 1995. On its own, yes, I can understand his concern but there had been some earlier discussions with Sir Kenneth which he may have forgotten about the moment when I expressed to him my personal concerns about the SBO controls prior to a meeting that took place with the Meat Hygiene Service on 11th October 1995, when, if you like, I expressed my extreme displeasure at the fact that there were significant problems with the SBO controls and I asked Johnston McNeill and Peter Soul to do everything they possibly could to achieve full compliance. I had thought that Sir Kenneth was aware of that meeting and my concerns at that time.2542

6.142 On 24 October 1995 Mr Lister informed Dr Kenneth Calman that SEAC had discussed the removal of SBO on 8 September 1995. He explained that the question of whether small scraps of spinal cord might get into the human food chain was raised, but that MAFF ‘saw this as a problem affecting only the animal food chain and one which the new Meat Hygiene Inspections would resolve’. He continued that the information presented in the answer to the Parliamentary Question was new, and not available to SEAC, and summarised the evidence as follows:

Continuing cases of BSE in animals born after the feed ban indicate that SBOs may well have got into animal feed because of inadequate controls at slaughterhouses. We cannot therefore rule out the possibility that SBO may have got into the human food chain. This concern is supported by evidence from the recent unannounced visits to slaughterhouses; but

New MHS inspection system means that the situation is now being controlled and opportunities for contamination should become rare. However, we can’t yet say that the problem is resolved, and this concern is shared by the SEAC.2543

2541 S179 Calman paras 96–7
2542 T69 pp. 180–1
2543 YB95/10.24/7.1
Dr Wight and Mr Lister had discussed the wording of a CMO statement, and proposed the following:

In view of the uncertainty surrounding slaughterhouse procedures, it is impossible to give a complete assurance that Specified Bovine Offal has not entered the food chain. However, it is exceedingly unlikely that this has happened to any great extent and, importantly, I remain satisfied that there is no scientific evidence of a link between meat-eating and the development of CJD in humans. 2544

Dr Calman expresses his concerns about BSE to Mr Packer

Sir Kenneth Calman was ‘extremely concerned’ about Mr Lister’s report, and on 25 October 1995 he met Mr Packer and Mr Carden to ‘express disquiet about the position on BSE’. 2546 There is a conflict of evidence about this meeting. Mr Packer briefed Mr Hogg on the meeting, and set out Sir Kenneth’s concerns as follows:

the continuing high number of BSE cases found, though admittedly this was declining;

the fact that many cases had been ‘born after the ban’ (that is after the ban on the inclusion of ruminant protein in ruminant feed). He noted that MAFF now accepted that for many years controls in feed mills and elsewhere had been insufficient to prevent ruminant protein being included in ruminant feed;

the recent discovery as announced by Parliamentary Answer that spot checks had shown that Specified Bovine Offal was not always properly removed in slaughterhouses. (As the CMO also pointed out such was in any case suspected since otherwise, even if ruminant protein had been included in ruminant feed, it ought not to have been capable of producing BSE . . .);

the fact that four farmers all with BSE in their herds had now contracted CJD. The chances of this occurring naturally were very small indeed;

the fact that the Department of Health had not been properly consulted about the PQ we had recently answered on the failures in slaughterhouses. The CVO had sent him a draft at a late stage but the reply had been laid before he had been able to comment. This did not help confidence between departments. 2547

Mr Packer continued that against these concerns the CMO had agreed:

. . . that the scientific work undertaken so far had been reassuring about the possibility of transmissibility to man; and there was still a strong balance of probability against the consumption of beef being related to CJD. However, overall he was not entirely happy with the situation and this would inevitably
be reflected in his public utterances. While he would not depart drastically from what he had said previously and, in particular, would continue to maintain a strong presumption as to the safety of beef, he could not be as unequivocal as in the past.\footnote{2548} 

6.146 Mr Packer noted that he had offered assurances to Dr Calman that MAFF would ensure they liaised with DH on matters such as Parliamentary Questions and would pursue with vigour the monitoring of adherence to the Regulations in slaughterhouses. In relation to further action, Mr Packer proposed to Ministers that MAFF should call in the slaughterhouse owners and ‘read the riot act’. He reported that the CMO had suggested it would be helpful if he met the Minister to express his concerns.\footnote{2549} 

6.147 On 25 October 1995 Dr Calman set out his concerns in a confidential file note. He noted that information available over the last four months necessitated a review of the existing evidence that there was no link between BSE and CJD. The new information related to the incidence of CJD provided by the CJD Surveillance Unit, the lack of a rapid fall-off in the incidence of BSE in cattle, the possibility that SBO might get into the food chain from slaughterhouses, and greater understanding of the biology of BSE. His note continued:

These findings taken together do not give grounds for complacency and are not entirely reassuring. The uncertainty remains, and may even have increased. In view, in particular of the problems uncovered in the slaughterhouse procedures, it is impossible to give complete assurance that SBOs have not entered the food chain. However, it is exceedingly unlikely that this has happened to any great extent, and importantly there remains no scientific evidence of a link at present between the eating of meat and the development of CJD in humans. These conclusions have been confirmed by SEAC. The long incubation period needs to be remembered.

The issue remains however, that the uncertainty has increased, rather than decreased. Urgent action is required to reassure the public that all steps are, and have been taken, to minimise any possible risk.\footnote{2550} 

6.148 Mr Hogg read Mr Packer’s minute describing the meeting with Dr Calman ‘with concern’ and asked for ‘an urgent meeting’ with officials and a separate meeting with the CMO.\footnote{2551} 

Discussion: the meeting of 25 October 1995

6.149 During oral evidence to the Inquiry, Dr Robert Kendell, CMO for Scotland,\footnote{2552} said that he attended the meeting between Dr Calman and Mr Packer. However, he recalled the meeting being attended by five or six people at Richmond House in the room next to Dr Calman’s office, whereas Mr Packer’s minute says ‘the Chief Medical Officer and a colleague came to see Mr Carden and me earlier today’.\footnote{2553} Dr Kendell said that Dr Calman made his concerns very clear, and that:
Mr Packer explained that we needed to understand that farming was a fairly anarchic industry, and that slaughterhouses were under great economic pressure. They knew that some of them were going to go out of business. And it was almost inevitable that these regulations would not be fully observed all the time.  

6.150 Dr Kendell also suggested that the meeting was ‘heated’, and that Dr Calman was ‘upset and cross’. When asked whether he thought the lapses in adherence to the SBO Regulations had come as a surprise to Dr Calman, Dr Kendell explained:

I think he had known for perhaps a week or two, but not for longer than that, about these failures of Meat Hygiene Service inspections. But I think the thing that was distressing was not the magnitude of the breakdowns – we thought that we were talking about four or five or six occasions on which an inspector had found spinal cord still attached to a carcass – but it was this attitude, ‘Well, you have to expect this’, that upset us.

6.151 In a statement to the Inquiry, Mr Packer asserted:

I recall the meeting on 25th October and I believe I would remember such comments (had I made them) and such a reaction from Sir Kenneth. I recall neither.

6.152 Mr Packer also suggested that a number of inconsistencies between Dr Kendell’s evidence and the contemporaneous minute existed, and suggested that ‘Dr Kendell’s recollection must be incorrect’.

6.153 We have not been able to reconcile details of Dr Kendall’s evidence with the other evidence relating to the meeting on 25 October and are left in doubt as to the reliability of his recollection of the comments that he has ascribed to Mr Packer. Mr Packer’s actions in the day that followed certainly displayed no complacency (see paragraph 6.144).

MAFF and the MHS take steps to tighten enforcement of controls on SBO in slaughterhouses

6.154 On 27 October 1995 Mr Eddy put forward a submission to Mr Hogg on measures to tighten enforcement of controls on SBO in slaughterhouses. He invited Mr Hogg to note that the SVS would be doubling the frequency of surveillance visits to slaughterhouses, so that each would be visited once a month. He recommended that Mr Hogg write to the Chief Executive of the MHS to instruct him formally, in accordance with procedures set out in the Agency’s Framework Document, that appropriate steps should be taken to ensure that the MHS staff enforce the SBO Regulations properly.
6.155 On 30 October 1995 Mr Hogg, Mr Antony Baldry (the Minister of State, MAFF), Mrs Browning, Mr Carden, Mr Haddon, Mr K Taylor, Dr Cawthorne, Mr Eddy and senior officials of MAFF held a meeting on BSE. Mr Strang minuted Dr Render about the meeting, describing a wide-ranging discussion which included ‘the origin of BSE’ and the ‘increase in CJD cases, and in cases in unusually young people’. Mr Packer described:

... the potentially very serious matter of cases where SBO matter – in particular spinal cords – had not been properly removed from carcases. We had to take and be seen to take all necessary action to put this right. He recommended that the Minister should call in the Chief Executive of the Meat Hygiene Service to stress that he attached the highest importance to strict enforcement of our provisions. The Minister agreed.

6.156 Mr Hogg also ‘agreed that the MHS should launch prosecutions where that was appropriate ... [and] that he should call in, as a group, the key organisations, telling them clearly that the results of our inspections in September showed that they were not doing well enough ...

6.157 The Minister and Mrs Browning both expressed concerns about reports of CJD among farm workers. Mrs Browning ‘stressed the need to continue with our precautionary approach’ and added that ‘we should not be too dismissive ... of the possible link between farming and CJD.’ The cases of CJD in farmers are discussed in vol. 8: Variant CJD. On public presentation ‘the Minister said that he would make plain that the September results of the surveillance exercise to monitor compliance showed that things were not as they should be.’

6.158 The next day Mr Meldrum submitted a revised draft letter of instruction to Mr Hogg, recommending that the Minister should use it as the agenda for the planned meeting with Mr McNeill, the Chief Executive of the MHS.

6.159 On 6 November 1995 Mr Hogg, Mrs Browning, Mr Packer, Mr Carden and Mr Osborne met Mr McNeill. The note of the meeting recorded:

The Minister stressed the importance of our controls on SBOs in our strategy for the control and eradication of BSE. He was very concerned about the results of the most recent SVS audit of SBO handling in slaughterhouses. Clearly there had been a number of failings. We had to consider together how to make the slaughterhouses do better.

Mr McNeill shared the Minister’s concerns ... Immediately after this meeting, he would issue instructions to MHS staff stressing the importance of 100% compliance.

6.160 The note of the meeting recorded that the Minister made it clear that Mr McNeill should not hesitate where appropriate to prosecute for non-compliance. It continued:
The Minister asked whether, technically, we could expect slaughterhouses to deliver 100% compliance. [Mr Carden] said that we had to keep the problem in perspective. The four problem cases we had so far identified had been against the background of the 50,000 carcasses processed each week. However, the research findings implied that even very small amounts of BSE could have serious implications. We therefore had to be very rigorous indeed. We could not tolerate anything less than 100% compliance. Mr McNeill said that, in terms of the technology, there was no reason for non-compliance. 2565

6.161 On 8 November Mr Hogg followed up the meeting by writing to Mr McNeill with formal instructions, in accordance with procedures laid down in the Agency’s Framework Document, for the MHS to:

Ensure that appropriate steps are taken to see that your staff in slaughterhouses enforce the Specified Bovine Offal Order 1995 fully. Failure to comply with these Regulations is an extremely serious matter. I must therefore ask you to make every effort to secure 100% compliance. In particular, your staff must ensure that all SBO is removed from a carcase before they give it a health stamp. Failure to do so should be viewed extremely seriously. I have discussed this with the Secretaries of State for Scotland and Wales and know that they fully share my concerns. 2566

6.162 In oral evidence to the Inquiry, Mr Hogg stated:

If you take the Meat Hygiene Service, it was possible for Angela [Mrs Browning] and myself to call in Johnston McNeill, which we did in November 1995, and give him formal instructions, which you will recall is set out in the papers, and I can take you to them if you want. A formal instruction I gave to Johnston McNeill to say (a) you are to ensure 100 per cent compliance, (b) you are to prosecute and (c) if any of your officials do not do their jobs, they will face disciplinary action.

Giving a formal instruction, which was under the framework agreement, which we will also find in the papers, is a very rare thing because it is a re-ordering of priorities. 2567

6.163 On 8 November Mr McNeill wrote to all MHIs and SMHIs about the SBO controls, and to follow up his agreement at the meeting with Mr Hogg the previous day. 2568 Mr McNeill stressed the importance of SBO removal:

I wish to emphasise one point in particular. Page 4 of Chapter 10 [of the MHS Operations Manual] states that ‘Care should be taken to ensure that all SBO, particularly the spinal cord, are removed completely.’ In order to guarantee that there is 100% compliance with this requirement YOU MUST NOT APPLY THE HEALTH MARK TO ANY BEEF SIDE UNLESS YOU ARE ABSOLUTELY CERTAIN THAT ALL THE SPINAL CORD HAS BEEN REMOVED. 2569
The letter also stressed that any failure on the part of MHIs and SMHIs to comply fully with their responsibilities would be dealt with as a serious disciplinary matter and could ultimately lead to dismissal. The letter further stated that if staff were obstructed in any way by plant management while carrying out their instructions, they were to record the incident and report the matter to their OVS, who would be expected to note and act on the incident and report it to the Regional Manager as a matter of urgency.

On the same day Mr Soul wrote to OVSs of the MHS to emphasise the importance of their role in ensuring that slaughterhouses comply with the SBO Order:

It has come to my attention that some members of the profession may have adopted a somewhat laissez-faire approach. They seem to believe that a reasonable level of compliance with the SBO Order is acceptable. That is not the case. Only 100% compliance is acceptable. I am confident that the vast majority of OVSs realise just how important it is for farmers and the UK beef industry that we all strive to ensure that there are no deficiencies with respect to SBO controls in our plants.

I know that I do not need to remind you that there are perceived public health as well as actual animal health implications. We have a duty to ensure that all potential risks to public health as well as all animal health risks are eliminated or minimised.

Mr Ron Spellman, a member of UNISON, the trade union representing MHS staff, discussed the problems faced by OVSs at this time, in oral evidence to us:

We are fairly confident that during the autumn of 1995 there were almost no OVSs who were actually authorised to take any statutory enforcement action. The split – an inspector on the line, the enforcement action that he is limited to is not to health mark the carcass. Beyond that an inspector has no formal enforcement power on a day-to-day basis. He would achieve improvement in hygiene by informal action.

But the sort of problems that were faced in the autumn of 1995 to try to achieve 100 per cent compliance related to the way the production lines were running to the condition of the product presented to the meat inspector. Problems with areas of spine left bridged over where the spine was not properly sawn down the middle. Problems of the use of high pressure hoses which blasted pieces of spinal cord all over the place.

Problems really of [manning] levels also and of the ability of the inspector to have enough time to inspect and a number of staff employed by the plant to remove the SBO. Those were things over which the inspector had very little control except not to stamp the carcasses.
To effect improvements in the line and the manifesting levels et cetera, that needed some sort of statutory action taken. The person in the front line for that was the OVS. But it is our belief that OVSs were not authorised to take that action in the autumn of 1995.2571

6.167 In his statement to the Inquiry, Mr Ben Priestley (former NALGO2572 representative; Assistant National Officer, UNISON2573) discussed the disciplinary measures taken against meat inspectors:

Not surprisingly, there was a huge rise in the number of inspectors being disciplined for failing to properly enforce the regulations. The vast majority of these cases were successfully defended by UNISON on grounds of substantial mitigating factors, for example, lack of staffing, poor lighting at the plant or other issues beyond the inspectors’ control. As far as UNISON is concerned, the disciplinary purge was a cosmetic exercise designed, within limited resources, to help the Minister persuade the public that the MHS was tackling the problem of SBO non-compliance. The fact that the majority of those first implicated were exonerated of gross misconduct does not compensate for the personal trauma which many went through as part of the process.2574

Consideration of the prosecution of slaughterhouse owners for failing to remove spinal cord

6.168 The issue of prosecuting slaughterhouse owners for the failure to remove spinal cord from carcasses presented for inspection was discussed in a minute from Mr Fleetwood to Dr Cawthorne on 17 November 1995. He said:

In accordance with your instructions, I have activated the necessary steps to ensure that SVS staff collect, or do not disturb, such evidence as may be necessary to prosecute operators who present carcasses for meat inspection containing fragments of spinal cord. However, I advise extreme caution before we decide that it will be possible to prosecute slaughterhouse operators who present such carcasses for meat inspection.

Under the SBO Order, an offence is committed if meat is sold for human consumption containing SBO. The operator is required to remove SBO from the carcase but no specific point is quoted for this to take place, other than (by definition) by the time it reaches the point of sale. The point of sale, as enshrined in the Fresh Meat Regulations, is the point at which meat is loaded on the despatch lorry. Therefore, I cannot see that an offence has been committed under the SBO Order if a side of meat is presented for inspection containing a fragment of spinal cord. An offence would be committed if that side was loaded on the despatch lorry without the cord having been removed, although, as we have already discussed, it would be difficult to successfully prosecute the operator if the side had received a health stamp.

I understand that the Fresh Meat (Hygiene and Inspection) Regs are being amended to make spinal cord removal an operation that must take place

2571 T65 pp. 101–2
2572 National Association of Local Government Officers, one of the unions that merged to form UNISON
2573 April 1996 onwards
2574 Priestly para. 38
during carcase dressing. Once this amendment comes into effect, we may be on safer ground pressing for prosecutions although again, I think matters are far from clear.\textsuperscript{2575}

\textbf{6.169} Ms Shasa Spencer of the MAFF Legal Department minuted Mr Eddy on 20 November 1995 regarding Mr Fleetwood’s minute, with copies sent to Mrs Brown, Mr Fleetwood and Mr Meldrum among others. She discussed the possibility of prosecuting slaughterhouse owners under the SBO Regulations.

\textbf{2.} . . . As far as the offence of selling any SBO, or food or feedingstuff containing SBO is concerned, the point of sale is obviously an appropriate time for assessing whether the offence has been committed, although in article 2 of the Order ‘sell’ is defined as including having in possession for sale or offering or exposing for sale.

\textbf{3.} However, the requirements of article 6 of the SBO order (initial treatment of SBO in a slaughterhouse) are not linked up to the point of sale. An offence will have been committed by the occupier of the slaughterhouse if the SBO and, if appropriate, the head, have not been separated as required.

\textbf{4.} Although article 6(1) of the Order does not expressly state the stage at which the separation is to take place, it seems to anticipate that it will occur as soon after slaughter as possible, particularly since article 6(3) makes it an offence to allow SBO to come into contact with any other animal material while in the slaughterhouse. Therefore, if a carcase is presented for inspection on the basis that the SBO has been removed and it is found to contain fragments of spinal cord, article 6 of the Order will not have been complied with, thereby constituting an offence under the Animal Health Act. This will be so, whether or not there is time to remove the fragments before loading the carcase for despatch, particularly as, in practice it seems that the carcase will be inspected at the stage when all preparation of it will have been completed (i.e once it is in the cold store waiting for despatch).

\textbf{5.} However, I have discussed the matter with my colleague, Mr Harrison who is responsible for prosecutions and he has certain reservations about prosecuting in these circumstances. Because there is no express indication of the point at which the removal of SBO should occur, the argument could be raised that the point of the SVS or MHS check in the slaughterhouse should be to ensure that all the SBO has been removed and therefore, discovery of fragments of spinal cord should be notified so as to facilitate proper removal rather than used to facilitate a prosecution. Further, if the carcass concerned has already been checked by the MHS, a prosecution relating to the subsequent finding by the SVS of a failure to properly remove SBO from that carcass would be very difficult from a presentational point of view. As result, the likelihood is that we would be unlikely to prosecute such cases. This situation would be much improved by the specifying of a stage by which the removal of SBO must be done.\textsuperscript{2576}
6.170 Mr Eddy replied to Ms Spencer on 22 November.

I take your point you have made in paragraph 5 and I think that we here had already accepted that if the Meat Hygiene Service had cleared a carcass and stamped it, it would be very difficult to take a prosecution. But for other carcasses which are not yet stamped I am not clear whether your concluding sentences also apply. Clearly we would normally simply seek to ensure proper removal of the spinal cord but we already have one case where, on separate occasions, pieces of spinal cord have been found at the same abattoir and I take it that you are not saying that we cannot prosecute, even in circumstances where the abattoir consistently fails to meet the standard. The question of prosecution is of course one for the Meat Hygiene Service and not core MAFF but I have read your paragraph 5 to mean that there is not a clear impediment to prosecution although regretfully the legal position could be tighter.

I am pleased that you have copied Mrs Brown into this as I believe that the changes under way on her side may help to clarify the situation by including removal of SBO in the dressing standards. In the meantime I would have thought that if we come across carcasses which have clearly finished processing on the line and are in the cold store awaiting meat inspection approval and thereafter despatch, it would be difficult for the operator to claim that these carcasses had been intercepted at an intermediate stage and were going to be subject to further processing by him to remove the spinal cord and that he was not therefore in breach of the Order.

From talking to Mr McNeill the MHS clearly also need to be able to prosecute if a carcass is presented for inspection on the line with SBO left in it. Is the legal advice clear that there is no chance whatsoever that such a prosecution would succeed even when it is clear that the SBO was left behind because of bodged removal of spinal cord? If so then we need to amend the Order urgently and I would be grateful for advice on this. If not then its clear we need to take prosecutions with vigour. Mr McNeill is very concerned that the prosecution side of the Legal Department has not yet taken sufficient action to allow a prosecution to proceed and seem to have some reservations about the feasibility and priority to be given to this. I must emphasise that this is very important and we must take some prosecutions if the industry is not to fall back into sloppy practices. Indeed some meat plants are already telling the MHS that they are relying on the MHS inspector on the line to check that all spinal cord is removed. This is clearly not in line with the message they gave the Minister where they promised to co-operate and puts an unreasonable burden on the MHS.2577

6.171 Mrs Brown minuted Mr Eddy on 23 November, with copies sent to Mr Meldrum, Dr Cawthorne, Mr Fleetwood and others. She said:

Para 4 of Ms Spencer’s minute and para 5 of your minute assume that meat inspection/health markings take place in the chill room prior to despatch of the carcass. Unfortunately things are more complicated than that. Final carcase inspection in full throughput slaughterhouses normally takes place in the slaughterhall, and at least one health mark per side is applied to the
carcase at the final inspection point, although further health marks may be applied later when the carcase is in the hanging hall or chill room. The final inspection cannot be delayed until the carcase is in the chill room because the red offal must remain correlated with the carcase until after final inspection, and correlation is usually lost when the carcase leaves the slaughterhall. Any carcases that have finished processing on the line should therefore have been health marked.

The forthcoming amendment to the Fresh Meat (Hygiene & Inspection) Regulations 1995 Schedule 9 is to make removal of the spinal cord a dressing requirement for bovines over 6 months old. Since Regulation 11(2)(b) requires meat which is health marked to comply with the requirements of the Regulations, this should put beyond doubt the meat inspector’s power to refuse to health mark a carcase which has been inspected ante- and post-mortem and passed fit for human consumption but which contains fragments of spinal cord. It was not drafted with a view to facilitating prosecution of the operator.

Even after the amendment has been made the Fresh Meat (Hygiene & Inspection) Regulations will not specify when the spinal cord has to be removed . . . It would be a relatively simple matter – though we have to observe the Food Safety Act statutory consultation process – to amend this paragraph to specify that the spinal cord must be removed at this stage. Failure by the operator to comply would then become an offence under Regulation 21(2), punishable on summary conviction to a fine not exceeding the statutory maximum and on conviction on indictment to a fine or up to 2 years imprisonment or both.2578

6.172 The Fresh Meat (Hygiene and Inspection) (Amendment) Regulations 19952579 were made on 8 December 1995 and came into force on 1 January 1996. They required the occupier and persons engaged in the handling of fresh meat to ensure that slaughtered animals were dressed so that the spinal cord was removed from bovine animals over six months old.

6.173 Mr Colin Penny of the Meat Hygiene Division, MAFF2580 discussed the amended Regulations in his statement to us:

In 1995, Mrs Sadowski and I drafted further amendments to the Fresh Meat Regulations mainly to implement a series of amendments to Council Directive 64/433/EEC unconnected to BSE. Certain other amendments however were made which were relevant to BSE e.g. that the spinal cord had to be removed from bovine animals over six months old. The MHS and SVS had questioned the powers of the Meat Inspector to refuse to apply the health mark to carcases from which all the spinal cord had not been removed; the only routine situation in which the health mark would not be applied was if the meat was unfit. However, carcases with the spinal cord in would not, per se, be classed as unfit under the Food Safety Act 1990, nor would the Directive have prevented them from being marketed. The amendment made it a requirement of the Regulations that the spinal cord should be removed and thereafter the health mark could not be applied unless the cord had been
removed according to the Regulations; this overcame the difficulty of declaring the meat unfit for human consumption.2581

**Mr Hogg meets representatives of slaughterhouses to discuss the handling of SBO**

6.174 On 9 November 1995 Mr Hogg met representatives of slaughterhouse operators to discuss the handling of SBO. The note of the meeting recorded that the Minister recapped on the results from the SVS surveillance visits to slaughterhouses during summer and autumn 1995. In particular he drew attention to the failures to remove spinal cord from carcasses as observed during the September visits and to the initial results for October which ‘were very disappointing, and showed a further six instances of failure to remove spinal cord from carcases’. The note continued:

The Minister explained why these results were such a cause for concern. Although there was at present no evidence that BSE might be a threat to public health, we had to take a precautionary approach, basing our controls on the presumption that BSE might be a threat. Where there was evidence – as there appeared to be now – that SBO material might have entered the food chain, there was likely to be very considerable public anxiety. He could not over-emphasise the potential threat to the industry as a whole. Moreover, failure to deal adequately with SBO material would almost certainly perpetuate the animal health problem of the epidemic itself.

The Minister said that he was therefore insisting on 100% compliance with the SBO controls. He looked to the slaughterhouse operators to ensure that the requirements were met in full.

The Minister explained the steps that Government was taking. He had recently met the Chief Executive of the Meat Hygiene Service, instructing him to ensure that his officials did all they could to secure 100% compliance. He had said that, if there was sufficient evidence to substantiate prosecutions, the MHS should not hesitate. The industry should be clear about this: prosecutions would be undertaken. There would be no further warnings.

The Minister concluded that it was imperative that the rules were complied with. He looked to the industry to ensure that this was the case. He asked the representatives present to ensure that the message was conveyed to their members.2582

6.175 Industry representatives commented that the Minister ‘was preaching to the converted’ and that they were ‘right behind MAFF and would comply’. Some representatives commented on the difficulties of achieving 100 per cent compliance in removing all traces of spinal cord. The industry pressed for the costs of SBO removal to be borne by government or by EU funds. Mr Hogg insisted that compliance must be absolute and that it would be for the slaughterhouses to bear the costs.2583
6.176 In evidence to the Inquiry on the meeting, Mr Hogg recalled:

It was a fairly tough meeting. I read the riot act . . . They were pretty hostile to what they were being told, and actually they were saying, broadly speaking, ‘We cannot give you 100 per cent compliance, do not be silly, only go for the serious cases’. I was saying, ‘That will not do at all. I intend to prosecute, you will comply and I do not want any excuses, thank you very much’. It was a pretty rough meeting; I do not mind that, that was the way it was. 2584

6.177 In the MAFF press release issued after the meeting, it was reported that Mr Hogg said:

I had a useful meeting with representatives of slaughterhouse operators. I expressed my concern that a number of failings had been found in the handling of specified bovine offals in slaughterhouses and reminded them of the importance of the SBO controls for the protection of public and animal health.

I said that I would only be satisfied with 100 per cent compliance with the rules and informed them that the Meat Hygiene Service would enforce the controls most rigorously. 2585

Discussion of the response to the third round of special surveillance

6.178 The response to the reports of slaughterhouse failures to remove spinal cord was vigorous and commendable. Dr Cawthorne had stated in his 13 October update that no prosecution for breach of the Regulations would be undertaken without the consent of Ministers because ‘such action could undermine the validity of our BSE controls’ (see paragraph 6.135). This seemed to us to reflect a concern that it might be undesirable to take remedial action if this risked denting the confidence of the public – or the international community – in the efficacy of the UK BSE controls.

6.179 If this was Dr Cawthorne’s concern, Mr Hogg would have none of it. He made it plain that there should be prosecutions for breaches of the Regulations, where appropriate, and drew attention to the failings that had been discovered and the reaction to them in a press release (see paragraph 6.177). It was an extreme step to give formal instructions to MHS in relation to the enforcement of the Regulations (see paragraphs 3.161–3.162).

6.180 Mr McNeill and Mr Soul responded appropriately to the instructions (see paragraphs 3.163–3.165) by issuing immediate and emphatic instructions and by monitoring the results. These were to show that instructions were not enough and additional resources had to be provided to raise the standards of meat inspection to the level necessary to ensure full compliance with the Regulations.
MAFF consults with DH on a paper on BSE and CJD for the Cabinet Committee concerned with the presentation of Government policy

6.181 During early November, MAFF consulted with DH on a draft paper on BSE and CJD prepared for the Cabinet Committee concerned with the presentation of Government policy (EDC(P)). MAFF sent the paper to the EDC(P) on 6 November 1995. The next day Mr Lister forwarded to the CMO a copy of the final paper and noted that MAFF had agreed to all the amendments to the draft paper suggested by DH, except for one paragraph on the failure in slaughterhouses to deal properly with SBO. His covering minute recorded:

MAFF’s original wording was:

‘We have, however, recently found failings in the handling of SBOs in some slaughterhouses. This is potentially serious, although we know of no cases in which SBO material entered the human food chain. We are taking steps to tighten these controls and the Meat Hygiene Service will prosecute in future cases.’

CMO asked for the second sentence to be amended as follows:

‘This is potentially serious as lapses could have caused SBOs to enter the human food chain,’

The agreed fallback position, if MAFF found this unacceptable, was to end the sentence after ‘potentially serious.’

MAFF officials were only willing to accept the amended wording if they could add that they knew of no cases where SBO material had entered the human food chain (the wording we specifically wanted removed). As we were not prepared to agree to this, we settled for the fallback position.

This is indicative of the unwillingness of some MAFF officials to accept the lapses in SBO controls as an issue of genuine public health concern, as opposed to one about the undermining of public confidence in the safety of British beef.2586

6.182 Dr Calman discussed the reaction of MAFF to his proposed amendment in his oral evidence to the Inquiry:

I mean, for me, as I tried to say all along, it was very important that the public were given all the information required and that they were able to make the decisions themselves. I felt that a statement that it is potentially serious as such lapses could have caused SBOs to enter the food chain was a very important statement to have within any public statement or a statement going to a public committee. MAFF clearly found that a step too far for them and wished to change that and there was some discussion about what would effectively be the briefing for the Cabinet Committee.2587

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2586 YB95/11.07/7.1 para. 4; see also S179 Calman para. 100
2587 T66 p. 143
On 16 November 1995 Dr Wight of DH expressed concerns to Mr Eddy about the briefing paper for EDC(P). Dr Wight stated that the Department’s views had not been sought before the paper was sent to Cabinet and added:

I would like to register the CMO’s and Department’s concerns over the generally reassuring tone of the paper. Perhaps this is best illustrated by reference to one or two specific points, for example:

i) 3rd indent under ‘Protection of public health’. Surely it is an overstatement to say ‘All BSE suspect animals are killed...’. Whilst most of those with disease are slaughtered and compensation given, it seems clear that not every single one is picked up. Omitting the ‘All’ would give a more accurate reflection of the situation.

ii) 1st three indents under ‘Problems in Slaughterhouse’. The potential significance of the inspection findings should have been emphasised, particularly as we are aware to date of ten instances of non-compliance with SBO removal requirements. This must cast doubts on the safety of some products for human (and animal) consumption.

Mr Eddy replied on 22 November 1995. He stated that it was not an overstatement to say, ‘All BSE suspect animals are killed’, since any animal that receives a preliminary diagnosis that it is a BSE case is slaughtered. On the other hand, he agreed that:

... it would be an overstatement if we were ever to say that all animals with BSE are killed since that would imply that we were picking up as suspects all animals at any stage of the disease, which clearly we cannot do before the manifestation of any detectable symptoms. It is precisely because we cannot pick up the pre-clinical cases that the SBO ban applies... I accept that we do need to make sure that the slaughter policy and the SBO controls are closely allied in any presentation and that we have never, and would never, seek to suggest that the system for picking up disease in the animal is foolproof.

Discussion of Dr Calman’s proposed amendment to the Cabinet paper

So far as clinically affected animals were concerned, Mr Eddy had a fair point. More generally, however, our sympathies lie with DH in relation to the interdepartmental difference as to the information that was to be given to EDC(P). It was a clear inference from the surveillance results that spinal cord must have been entering the human food chain on occasion. The amended sentence that the CMO proposed was, if anything, an understatement.
Dr Calman meets MAFF Ministers to express his concerns about BSE

6.186 On 7 November 1995 Dr Calman and Dr Metters met Mr Hogg, Mrs Browning and Mr Packer, as had been agreed in late October. The note of the meeting recorded that, after some introductory remarks from Mr Hogg, Dr Calman had said he was concerned about BSE and ‘was less confident now than he had been a year ago that things were moving in the right direction’. He expressed his concerns that the origins of BSE were not understood well enough. Although the science was reassuring, he was concerned about the cases of CJD in farmers with BSE in their herds, the incidence of CJD in young people, and the fact that cases of BSE were not dropping off as predicted. He was also worried about controls at slaughterhouses and feedmills. The note of the meeting recorded his view:

If controls at these points were perfect potential problems and worries would be significantly less. Although he could continue to say with complete confidence that there was no evidence that British beef, that is meat as commonly understood, was not safe, it could not be said with confidence that no offal which might have been contaminated had entered the food chain. This reduced confidence that the public was being properly protected. If he was pressed on this point – and therefore by implication on the safety of food containing mechanically recovered meat – he would be in a difficult position; he would need to think very carefully about a suitable form of words. He reiterated that we should bear in mind that there remained no evidence of a link between CJD and BSE; the difficulty was that we might not know for sure for another year or two. We were therefore still talking about no more than a hypothetical risk. But it was easy to imagine how quickly the connection would be made in people’s minds.2591

6.187 The note of the meeting continued:

Dr Calman said that we appeared in the past not to have tackled adequately problems in slaughterhouses and feed mills. He implied that, if he were pressed on the point, he would say that the processes in place now were satisfactory, but that those in the past had not been.

6.188 Dr Calman ‘found the attitude of the farming industry and the slaughterhouses astonishing, particularly given the threat to the whole future of the sector’. Mr Hogg told of his meeting with Mr McNeill the previous day and added that he would shortly be seeing representatives from the slaughterhouse industry, and that his message would be ‘uncompromising’.2592

6.189 Mr Hogg agreed to Dr Calman’s suggestion to invite in Professor Pattison, the new Chairman of SEAC, for a meeting.2593 Dr Calman also suggested that the membership of SEAC might need to be altered to ‘reflect the fact that we would want them to give urgent consideration to human health aspects of the disease’.2594 The note records that after the meeting Mr Packer

2591 YB95/11.09/6.2 at para. 4
2592 YB95/11.09/6.3 at para. 6
2593 See vol. 11: Scientists after Southwood, 1989–96 for further details on SEAC membership
2594 YB95/11.09/6.3
stressed the importance of dealing with the risks to both public and human health. We had to bring down the number of incidents.

6.190 Dr Calman told us:

I recall informing the Minister that my concerns would have been greatly reduced but for the recent findings which led to my concluding that there was a potential for contaminated offal to have entered the food chain. By implication this led to concerns about the safety of food containing mechanically recovered meat . . . I then expressed my view that in the light of the recent finding of lapses in the SBO bans in slaughterhouses and feedmills I was not in a position to give any assurances that SBOs had not entered into the food chain. I informed the Minister of my view that I found the attitude of those with primary responsibility for implementation namely the farming industry and slaughterhouse owners and operators astonishing. I was however assured by the Minister’s intention to immediately inform those with primary responsibility that he would be only satisfied with full compliance of the rules.2595

Mr Hogg announces the results of the September and October SVS surveillance visits to slaughterhouses and other premises

6.191 On 9 November 1995 Mr Fleetwood reported to Dr Cawthorne and others in MAFF and the MHS on the October round of SVS surveillance of SBO removal at slaughterhouses. He noted that, although there appeared to be an overall improvement in the industry, ‘less satisfactory are the continuing incidents at slaughterhouses where SBOs do not seem to be separated correctly’. Of the 153 slaughterhouses visited by the SVS, 19 were noted as having problems with the identification, removal and separation of SBO.2596 Of these 19 problems, six were instances where spinal cord had been detected in bovine carcasses during October.2597

6.192 While the November round of SVS surveillance visits was under way, Mr Fleetwood reported regularly to Dr Cawthorne on the detection of spinal cord in bovine carcasses. By 20 November he reported that SVS staff had detected a number of instances of spinal cord in bovine carcasses, seven of which had been detected so far during November.2598

6.193 On 22 November 1995 Mr Hogg made public, by a response to an arranged Parliamentary Question, the results of the SVS surveillance visits to slaughterhouses during September and October. After describing the observed failings in the handling of SBO, he drew attention to the problem of the separation and storage of SBO material and the risk of such material entering the animal feed chain. He continued:

In the most serious cases we found small pieces of spinal cord, ranging in size from 1 cm to one third of the spinal cord, left attached to the carcasses

2595 S179 Calman para. 101
2596 YB95/11.09/4.1–4.3
2597 YB95/11.10/4.1–4.2
2598 YB95/11.20/6.1–6.2
after dressing. So far, we have found 17 such instances . . . Although in each instance the spinal cord was removed before the carcasses left the premises, these were potentially serious failings. It is essential that we eliminate any prospect of SBO material entering the human food chain.2599

6.194 Mr Hogg went on to outline the steps he had taken to ensure full compliance with the SBO Regulations.2600

SEAC considers the results of the surveillance visits

6.195 At the SEAC meeting of 23 November 1995, Mr Eddy reported the results of the latest round of inspection visits, which included several reports of small quantities of spinal cord being left in carcasses.2601 This was a worse result than those of the earlier surveys. In a statement to the Inquiry, Mr Eddy said that SEAC was ‘appalled’ by this because it had been reassured about ‘this sort of thing’, and felt it had been given assurances that the chances of this happening were very low. Mr Eddy went on to say:

I told the Committee that a number of investigations were under way with a view to prosecution and reassured them that the assurances which I and my predecessors had given had been in good faith on the basis of the information we had. Personally I felt as disappointed as the Committee.

MRM

6.196 In the first half of 1995, MRM was raised in the context of the production of gelatine from skulls and vertebrae for use in animal feed. While further details of SEAC’s consideration of the use of gelatine in animal feed are given in vol. 11: Scientists after Southwood, 1986–96, in this section we describe briefly how SEAC’s advice led MAFF to consider the possible implications for MRM. The main part of this section covers the second half of 1995, when SEAC revisited the extraction of MRM from bovine carcasses, leading to the ban, introduced in December 1995, on the use of spinal cord from cattle over six months old in the production of MRM.

Gelatine

6.197 SEAC had previously (in 1992) considered the use of gelatine in pharmaceutical products, and advised that SBO, as well as skulls and vertebrae, should not be used to make gelatine for pharmaceutical material used for injection, implantation or to be taken orally (see vol. 11: Scientists after Southwood, 1986–96).2602 The use of gelatine in animal feed was raised in early 1995 when UK animal feed manufacturers asked MAFF to relax the ruminant feed ban, so as to allow gelatine to be included in ruminant feed. This followed advice from the EU Scientific Veterinary Committee (ScVC) recommending that gelatine be excluded

2599 YB95/11.22/14.1–14.2
2600 YB95/11.22/14.1
2601 S109 Eddy para. 92
2602 YB92/10.15/2.7
from the EC ruminant feed ban (for further discussion see vol. 5: Animal Health, 1989–96). 6.198 Mr Eddy felt that SEAC should be consulted before any change was made to the ruminant feed ban. 6.199 Mr John Howard (Animal Health Division, Head of branch dealing with BSE policy, casework and correspondence) commented in a minute to Dr Cawthorne and Mr Fleetwood, among others, on 27 April 1995, that one option of implementing SEAC’s advice would be to add ‘skulls and backbone’ to the definition of ‘specified bovine offal’. 6.200 Mr Fleetwood responded to Mr Howard in a manuscript note on the same day:

To add backbone to the definition of SBO would enormously increase the amount of SBO to be disposed of, introducing logistical problems and huge costs to industry.

Surely, cannot we say that the proposed SBO order will prohibit bovine skulls from going for gelatin production and thus, at a stroke, the product of greatest risk has been eliminated. In the circumstances, need we worry about backbone – SEAC were unequivocal on this anyway.

The paper for SEAC on MRM

6.201 MAFF had submitted a two-page paper on MRM for SEAC to consider at its 17th meeting in August 1994. The paper had been prepared in the light of a recommendation made in July 1994 by the ScVC that spinal columns from cattle
born before 1 January 1991 and slaughtered in the UK should not be used for MRM production, unless they came from animals which had never been in a herd in which a case of BSE had been confirmed during the previous six years. However, the paper was deferred at SEAC’s 17th meeting. A revised paper was proposed for the 19th meeting on 21 June 1995.

6.202 The paper sought the Committee’s view on:

. . . the use of spinal columns from cattle born and slaughtered in the UK for the mechanical recovery of meat, i.e. meat for human consumption which is current practice.

The Committee will no doubt be aware of the possible read-across to gelatin production and consumer purchase of bone-in beef, (e.g. rib steaks) should a decision be taken to exclude some or all vertebrae from the production of MRM. The implementation of any partial exclusions would be extremely difficult to enforce.

6.203 After setting out some background on the recommendations from the ScVC, the paper went on to describe recent changes to legislation affecting the slaughter procedures for beef carcasses, and the effect of the transfer of responsibility for meat inspection to the MHS:

Concern has been expressed by some members in the past about adequate separation of SBOs from other parts of the carcass. With effect from 1 April 1995 responsibility for meat inspection in fresh meat premises was transferred from local authorities to the national Meat Hygiene Service (MHS). One of the main advantages resulting from transferring responsibility from the many local Authorities to the single MHS is that meat inspection standards can be applied consistently throughout the country. The MHS have been given instructions by MAFF on the need to enforce proper removal and disposal of SBOs. An unannounced audit is taking place in June, which, in particular, will check that the removal of the spinal cord is effective, and ascertain that the SBO controls are being properly implemented and will be monitored.

6.204 In conclusion, the paper stated:

The Committee will wish to note that despite the ScVC recommendation on MRM production the Commission have made no proposals in this area, and have given no indication that they intend to do so. Currently there are no restrictions on the geographical or anatomical origins of material used to produce MRM, although source bones must obviously come only from carcasses passed fit for human consumption. In practice skulls are not used for MRM production but vertebrae and long bones are used. A change in legislation which will soon be implemented will prevent the removal of brain and eyes from the skull, which will then have to be disposed of as SBO. It is important to ensure that spinal cord is removed from all carcasses slaughtered for human consumption.

As discussed in Chapter 5 of this volume, this recommendation on MRM from the Scientific Veterinary Committee was not included in the Commission’s Decision 94/474, which was made later in July 1994 and sought to strengthen EC rules on BSE.

YBS94/B.30/3.7

SEAC19 tab 4 p. 1
The transfer of responsibility of meat inspection to the MHS will ensure that consistent standards are applied throughout the country. The MHS have been instructed to pay particular attention to the separation of SBOs and the audit checks proposed by MAFF will provide assurances that the SBO controls are being fully implemented. This should ensure that no carcass is permitted to leave the slaughterhouse for human consumption unless the spinal cord has been completely removed.  

6.205 The paper recommended that:

In the light of the changes which are to be made to the controls on SBO and the methods of enforcing these controls the SEAC is recommended to advise that the use of spinal columns from cattle born and slaughtered in the UK for the mechanical recovery of meat may continue.  

SEAC’s consideration of the paper on 21 June 1995

6.206 The minutes of SEAC’s 19th meeting on 21 June record that Dr David Tyrrell, Chairman of SEAC, noted that the key question was whether the SBO controls were being effectively carried out and enforced. The minutes continued:

Dr Watson said that there was more likelihood of spinal cord being properly removed than brains from the skull. The impact of prohibiting the use of spinal columns on the industry would be enormous. In practice, there was a greater risk from spinal cord spraying onto meat. The question was once again one of policing. Mr Bradley noted that the head of the Meat Hygiene Service had been informed of the requirement to ensure that each side was inspected for the full removal of the spinal cord by meat inspectors.

Dr Tyrrell concluded that, provided in the slaughtering process the removal of spinal cord was done properly, the MRM process was safe and there was no reason for the Committee to change its advice.

Impact of SVS surveillance results on views about the safety of MRM

6.207 As described earlier in this chapter, SVS surveillance results in the second half of 1995 showed that in some instances spinal cord was not being completely removed from bovine carcasses.

6.208 Mr Meldrum mentioned in a minute dated 31 October 1995 that the instances in question were:

... potentially serious failings. Spinal cord is, of course, one of the tissues known to have the potential to harbour BSE infectivity. The backbone is frequently used in the production of mechanically recovered meat, and any remaining spinal cord would pass into the meat fraction.
6.209 Mr Meldrum discussed spinal cord removal and its effect on the perceived safety of MRM in written evidence to the Inquiry.

In summary over the period that I was the CVO there was considerable discussion about the safety of MRM and it was concluded that there was no reason to place any additional restraints on its production so long as the rules on the removal of the spinal cord were fully observed. I was not aware that there was any failure to remove the spinal cord from split bovine carcases until July 1995...\textsuperscript{2616}

6.210 However, in oral evidence Mr Meldrum stated:

I accepted that you would not be able to remove all the spinal cord on each and every occasion. It is not a perfect world... I also knew then and I also know now that on occasion small pieces of spinal cord may fall out of the spinal canal, be left attached, particularly in the head area if it becomes severed, and are attached and do not appear to lie in the spinal canal and can be missed.\textsuperscript{2617}

6.211 On 3 November 1995 Dr Tim Render, Animal Health (Disease Control) Division,\textsuperscript{2618} minuted Mr Hogg, enclosing a draft covering letter (addressed to the Deputy Prime Minister) which repeated Mr Meldrum’s earlier concerns.\textsuperscript{2619} The draft covering letter discussed the surveillance visits by the SVS to slaughterhouses and the instances of incomplete removal of spinal cord from carcases:

This is a potentially serious failing, as it could risk exposing the public to SBOs. The backbone is used in the production of mechanically recovered meat and any spinal cord left attached to it would pass into the meat fraction. I know that the Chief Medical Officer is concerned about the implications...\textsuperscript{2620}

6.212 The letter concluded with the action to be taken by the MHS in regard to surveillance, and noted that serious failings by slaughterhouse owners would be prosecuted.

6.213 On 16 November 1995 Dr Render advised Mr Eddy on the uses of MRM.

It can be used in any product containing chopped or minced meat. But in practice it is used in very few fresh, raw meat products and in few fresh cooked products. The main use is, apparently in products at the bottom end of the market, such as frozen sausages, burgers and pies etc.

6.214 He concluded that no information was available on the total amount of MRM produced and used.\textsuperscript{2621}
MAFF and DH agree that the MRM issue needs to be revisited

6.215 On 20 November 1995 a meeting was held between Dr Calman, Mr Meldrum and other officials from both MAFF and DH. MRM was a major topic for discussion. The note of the meeting, prepared by Mr Eddy, records that:

The CVO explained that this was a significant product for some meat plants but we were concerned because of the possible inclusion of small residues of spinal cord when the vertebral column was used for the production of this material. However the SEAC had visited slaughterhouses and had decided that it was not necessary to recommend a ban.2622

6.216 Dr Metters questioned whether ‘even if the spinal cord was properly removed, there was a risk from other associated nervous tissue’. The note of the meeting records that he was reassured by Mr Wells’s explanation that examinations of the cauda equina, peripheral nerves and dorsal root ganglia had been negative.2623

6.217 Mr Meldrum discussed the SVS surveillance visits to slaughterhouses, which had revealed ‘some problems related to spinal cord’. In response:

The CMO took the view that it was not possible any more to say that we could guarantee that potentially infectious material (spinal cord) could not get into the human food chain, albeit in small amounts. Clearly we have improved the situation in the last year or so but we cannot be 100% certain, particularly with the risk of inclusion of some spinal cord in MRM produced from vertebral column which would be used in cheap food. That is not to say that we believe that any member of the public may necessarily have been exposed to an infective dose but in presentational terms there is certainly a problem. The CVO agreed that we could not guarantee 100% removal of spinal cord although that was the target that had been set to the industry and the Meat Hygiene Service.2624

6.218 Mr Meldrum stated, and the CMO and Dr Metters agreed, that in risk assessment there was a difference between MRM produced from cull cows and that from young cattle, which was less of a risk.

6.219 It was agreed that the issue of MRM needed to be readdressed and that it would be put to SEAC at its 22nd meeting on 23 November 1995, as part of the planned agenda item on the review of the results from the SVS surveillance visits to slaughterhouses.

6.220 Sir Kenneth Calman is to be commended for the vigour of his reaction on learning that segments of spinal cord were escaping the attention of slaughterhouse operatives and meat inspectors. By pursuing this matter with Mr Hogg, and subsequently Mr Meldrum and other MAFF officials, he was instrumental in ensuring that the question of MRM was brought back before SEAC.
Discussion of MRM at SEAC’s meeting on 23 November

6.221 At SEAC’s meeting on 23 November, Mr Eddy updated SEAC on the outcome of compliance check visits to slaughterhouses. He noted that a small amount of spinal cord had been found on 17 separate occasions in 16 plants. Overall, it had been estimated that about 0.4 per cent of carcasses might have some spinal cord left in them. Dr Will was ‘appalled’ at this information, given assurances previously given to SEAC that there was very little chance that the spinal cord would remain in the carcass. Dr Kimberlin agreed with Dr Will and felt that the situation was ‘unacceptable’.

6.222 The Chairman, Professor John Pattison, quoted the minutes of the 19th SEAC meeting in June 1995, at which they had decided that MRM was safe as long as the spinal cord was removed. Having learnt that not all spinal cords were being removed, he wanted to reconsider the issue of MRM. The minutes continued:

The Committee discussed at length what level of compliance is acceptable bearing in mind that it is important to consider relative rather than absolute risks. Dr Will stated that medicines would be withdrawn on lower risks. Mr Bradley warned against action that was alarmist and stated that as the epidemic declines the risk is actually falling. Professor Pattison suggested that the use of MRM be suspended until we find evidence that compliance is 100%. Dr Kimberlin thought it dangerous to consider a ban, which would be tantamount to an admission that we cannot guarantee removal of two easily removed tissues.

6.223 After further discussion, including consideration of a draft statement prepared by the Secretariat, the Committee agreed the following statement, as recorded in the minutes:

Earlier in 1995 SEAC had considered that ‘provided in the slaughtering process the removal of the spinal cord was done properly, the mechanically recovered meat (MRM) process was safe and there was no reason for the Committee to change its advice.’

In the light of the current audit reports showing failure to remove parts of the spinal cord in a small number of carcases the Committee expressed its grave concern.

It noted the further tightening up of controls but felt that unless and until it was clear that the removal of SBO, particularly spinal cord, was now being undertaken properly in all cases it would be prudent, as a precaution, to suspend the use of vertebrae from cattle aged over six months, in the production of MRM.
MAFF’s response to SEAC’s recommendation on MRM

6.224 Mr Eddy put forward a submission on MRM to Mr Hogg on 24 November and copied it widely to other MAFF Ministers, MAFF officials and officials in Agriculture Departments in Scotland, Wales and Northern Ireland. He attached SEAC’s conclusion on MRM in the light of the recent problems with removal of spinal cord in some slaughterhouses, and said:

On the basis of the current reports from slaughterhouses we must assume that there will be more cases of spinal cord left in carcases, at least until the message has got through to plant operators that we mean business. This leads me to conclude that we have no alternative at present but to suspend the use of vertebral column from cattle other than calves for the production of MRM. I have discussed this with the CVO who agrees but has said that in practice it will be impossible to police the six month age cut off for MRM so we will need to go for a ban on the production of MRM from all bovine spinal column. 2631

6.225 Mr Eddy recommended that an Order be made under the Food Safety Act. Furthermore, he suggested the consultation period should be no longer than three weeks because of the nature of the problem, and ‘the fact that it is very much of the industry’s own making through its failure to comply with the existing law’. 2632

6.226 On 27 November 1995, Mr Hogg met Dr Calman to prepare for his meeting with Mr Stephen Dorrell, DH Secretary of State, the next day. Mr Packer’s minute of the meeting noted that, subject to Mr Hogg’s and Mr Dorrell’s views, Mr Hogg would announce, by written Parliamentary Answer the next day, that an Order would soon be made banning the use of bovine vertebral column in MRM. 2634

6.227 This minute formed the basis of a meeting between Mr Hogg ‘and various other colleagues’ 2635 on 27 November. Mr Hogg agreed that an Order should be made, that a Parliamentary Question should be answered on 28 November 1995 and that a statement should be issued incorporating a statement from the CMO. Consultation was also discussed, and it was decided that Mr Hogg would hold a meeting with interested parties on 30 November. Though a formal consultation period would not be ruled out, Mr Hogg would make it clear at the meeting that it was his intention to make an Order one week thereafter. 2636

6.228 Also on 27 November 1995 Mr Haddon forwarded a draft letter for Mr Hogg to send to the Prime Minister, John Major, immediately following his meeting with Dr Calman the next day, and a draft Parliamentary Question and Answer:

The proposed plan, as I understand it, is that the Minister should hold a Press Conference later tomorrow at which he will announce a short period of consultation on the proposed legislation banning the use of bovine vertebral columns for mechanically recovered meat as a precautionary measure. 2637

2631 YB95/11.24/10.2
2632 Ibid.
2633 July 1995 to May 1997, formerly DH Parliamentary Under-Secretary, May 1990 to April 1992
2634 YB95/11.27/1.1
2635 S327 Hogg para. 51
2636 YB95/11.29/3.1
2637 YB95/11.27/9.1
6.229 The next day, Dr Render sent a copy of the draft Order to various bodies, including the MLC, the National Farmers’ Union (NFU) and the British Meat Manufacturers’ Association (BMMA), asking for their comments on the proposed legislation. He also sent the same letter to plants producing MRM on 29 November. In the covering letter, Dr Render stated:

The Government is acting rapidly on this recommendation [from SEAC] in order to ensure that public health is protected from any remote theoretical risk from BSE. The measures are, of course, precautionary. There is no evidence of a link between BSE and the human disease CJD.2638

6.230 Also on 28 November MAFF sent out a press release and responded to a written Parliamentary Question on the issue. The press release noted:

The SEAC expressed grave concern about the findings by the State Veterinary Service of a number of instances where slaughterhouses had left small pieces of spinal cord attached to carcasses after dressing. . . The SEAC welcomed the steps taken by the Minister to ensure full compliance with the controls on SBOs, but concluded that, unless and until there was full compliance with the requirement to remove the spinal cord, it would be prudent, as a precaution, to suspend the use of bovine vertebrae in the manufacture of MRM.

6.231 The press release recorded Mr Hogg as saying:

I am grateful to SEAC for its advice and have acted upon it as quickly as possible. This removes the risk of spinal cord tissue entering the human food chain. The new measures, like the others in place, are precautionary. They are designed to protect public health from any remote theoretical risk from BSE. I would reiterate that we have no evidence of any link between BSE and the similar human disease, CJD.

These new measures are a consequence of the failings in the handling of SBOs we have found in slaughterhouses. They do not reflect any concerns about the MRM process itself . . .2639

6.232 A statement from the CMO was quoted, noting that there was currently no scientific evidence that BSE could be transmitted to humans.2640

6.233 During oral evidence, Mr Hogg said that by the time SEAC gave its advice he had already decided that the SBO Regulations:

within the slaughterhouses either could not or would not be complied as to 100 per cent. Therefore when I received this report from SEAC, I was in no way surprised and was determined to act, which is what I did.2641

6.234 Mr Hogg was also asked during giving his evidence to what extent he saw it as SEAC’s role to advise on questions of policy as opposed to questions of science. He responded as follows:

2638 YB95/11.29/4.1–4.4
2639 YB95/11.28/2.2
2640 YB95/11.28/5.1–5.4
2641 T95 p. 72
They cross, do they not, they overlap? Certainly it was there to advise as to the science, but also there are conclusions that you draw, or they draw from their scientific assessments which have policy implications. You do not always comply with them exactly, for example in this case, they said, I think, that the danger was only a live one in respect of cattle over the age of six months . . . In fact we concluded that you could not have the six months threshold built in, because of difficulties over enforcement, and therefore we made it a total prohibition, so far as MRM was concerned. So that is an example of us going further than SEAC. Clearly they are scientific advisers, but they say things which have policy implications.2642

6.235 It was also put to Mr Hogg that it might be perceived that SEAC advised the Government that its policy was defective in this instance, and that it should have been MAFF, not SEAC, that addressed the defective policy. Mr Hogg responded:

That may be a fair criticism, but it may also be that their looking at this matter coincided with our looking at the matter . . . In fact, SEAC made a recommendation – perhaps because their meeting was shortly after the audit, it is quite likely, I cannot put it higher than that, we would have come to the same conclusion of our own, because they were relying on the same material we had, which was causing me very considerable concern. 2643

6.236 Mr Hogg chaired a meeting with industry representatives and MAFF officials on 30 November to discuss the proposed Order. Mr Hogg explained MAFF’s reasons for the Order, what it would do and its plans for implementing it.2644 As noted by Mr Hogg in a statement to the Inquiry:

The industry representatives were on the whole unhappy with the MRM proposals, and raised a number of arguments against it. These included the issues of compensation, enforcement, the economic impact of the proposals and the adverse publicity that was being created. We discussed these issues fully and the representatives made it clear that they were not happy with my proposals. Despite this considerable pressure, I did not think that we had any choice but to follow SEAC’s advice, and accordingly the Order was drafted.2645

6.237 On 8 December Dr Render wrote again to interested organisations, enclosing a draft Order that had been revised in light of the comments that he had received following his previous letters of 28 and 29 November. He asked for further comments on the Order by 12 December.2646 The Order was made on 14 December 1995 and came into effect on 15 December.2647 It was to become the subject of an application for judicial review, and we deal with this in Chapter 7.

Discussion

6.238 Thus, at last, the decision was taken to ban the use of bovine vertebrae for the extraction of MRM. So far as preventing fragments of the spinal cord from

2642 T95 pp. 72–3
2643 T95 p. 75
2644 YB95/12.05/1.1–1.4
2645 S327 Hogg para. 52
2646 YB95/12.08/1.1–1.13
getting into the human food chain was concerned, this was to a large extent a case of shutting the stable door. Measures were in hand that were to ensure effective implementation of the duty to remove all spinal cord from the carcass.

**6.239** Much more significant was the benefit that the new regulation had in keeping dorsal root ganglia out of the food chain. Mr Wells had been premature when he informed Dr Metters that transmission experiments with dorsal root ganglia had been negative (see paragraph 6.216). The experiment was subsequently to show that dorsal root ganglia was infective.

**6.240** We have discussed in the previous chapter why it was that the VFS failed to discover in the course of slaughterhouse surveillance in the years prior to 1995 that spinal cord was not always cleanly removed from carcasses. We concluded that this was because the standard of inspection was less rigorous than the standard after the MHS was in place. We have seen how it was not until 1995 that the attention of the VFS was specifically focused on the importance of the total removal of spinal cord.

**6.241** The discovery of occasional cases where spinal cord had not been cleanly removed provoked expressions of extreme concern by the CMO and by members of SEAC. We have asked ourselves how far this reaction was attributable to knowledge of the result of the attack-rate experiment and to growing concerns consequent upon the incidence of CJD in farmers and young people. We believe that these factors, and perhaps the change in the composition of SEAC, played a part in producing this extreme reaction. We do not see that the scale of the failures to remove spinal cord was other than a reader of MAFF’s 1990 paper on slaughterhouse practices might have been led to expect. It is, as we have observed in Chapter 4, a matter of conjecture as to whether SEAC in 1990 would have responded to the failings that were discovered in the same manner as SEAC in 1995.

**6.242** Whether, and to what extent, the extraction of MRM from the spinal column of cattle carcasses in the years up to 1995 has resulted in transmission of BSE to humans is also, as yet, uncertain. What is, we think, now clear is that this was the route by which infectious material was most likely to enter the human food chain during that period.

### Developing knowledge on BSE and CJD

**6.243** This section gives a brief account of the main developments between April and December 1995 regarding knowledge of BSE, particularly those with possible human health implications, and developments on CJD. These developments are discussed in more detail in other volumes, particularly vol. 2: *Science* and vol. 8: *Variant CJD*.

**CJD developments: farmers and young people**

**6.244** As described in vol. 8: *Variant CJD*, from 1991 to 1994 the CJD Surveillance Unit (CJDSU) recorded the deaths of three dairy farmers from CJD. All had confirmed cases of BSE in their herds.

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2648 See vol. 8: *Variant CJD* for full details of CJD developments in 1995. See vol. 11: *Scientists after Southwood, 1989–96* for full discussion of SEAC’s consideration of CJD issues.
6.245 On 13 January 1995 SEAC held a special meeting to consider the significance of the death of a third dairy farm worker case from CJD. They concluded that the occurrence of CJD in three dairy farm workers with BSE in their dairy herds within the first five years of the CJDSU’s surveillance study was a matter of concern, given the low probability of this happening by chance. However, there was no evidence to suggest that these were other than sporadic cases. 2649

6.246 SEAC concluded that more information was needed before firmer conclusions could be drawn. However, SEAC agreed that the Government did not need to revise the measures taken to safeguard public health against occupational and other possible routes of exposure to BSE.

6.247 The second suspect case of CJD in a teenager was referred for an opinion to the CJDSU in May 1995. 2650 The first suspect case notified to the Unit had been identified in early 1994, as described in Chapter 5. A third case of CJD in a young person was referred to the Unit in August 1995. 2651

6.248 At its meeting of 8 September 1995, SEAC discussed CJD in young people. The minutes of the meeting noted:

It was the Committee’s view that the presentation of CJD in adolescents is exceptional but not without precedent. CJD has occurred in adolescents in other countries which are free from BSE and it would therefore be premature to conclude that its occurrence in a teenager in the UK was indicative of transmission of BSE. The Committee agreed that these cases should be studied in great detail and it should consider whether they had any implications for the cause or management of the disease. 2652

6.249 On 29 September 1995 the press reported the third case of CJD in a dairy farmer, 2653 and the CMO was informed of a suspected fourth case. 2654 The fourth case involved a farmer who had kept a beef suckler herd which had a single case of BSE in 1991. SEAC considered the fourth case during a special meeting on 4 October 1995. The following conclusions were reached:

- there had been a worrying number of cases in farmers exposed to cattle with BSE. However, if there were an occupational link, there would be other occupations that might be expected to be at greater risk, and there was no evidence for this;
- the stage was being reached where it was difficult to explain the cases as a chance phenomenon. However, although significant, the absolute risk remained extremely low;
- the evidence in the current case was exposure to BSE for a short period. There was also the likely presence of meat and bonemeal fed to poultry before 1990;
- it was unclear whether the potential risk factor might be association with animals with BSE or the food given to them (it was known that some
farmers ate small amounts of calf and cattle feed but not whether they also ate pig and poultry feed). It was suggested that there might be a problem with dust from feed but that this should be more of a problem with feed compounders;

- given that there was a problem relating the cases to a causal link, the transmission studies were particularly important;
- it was still necessary to make a final diagnosis of CJD in the possible 4th case. 2655

6.250 On 23 October 1995 the Daily Mail reported the fourth case of CJD in a cattle farmer.2656 Later that day SEAC released a public statement:

It was difficult to explain this as simply a chance phenomenon. There is a statistical excess of cases in cattle farmers compared with the general population but the absolute risk, even for cattle farmers, is extremely low at about 2 cases per million per year. There may be other explanations for such an association besides infection with BSE, and the Committee noted that there are no reported cases in other occupational groups such as veterinarians who might be expected to be similarly exposed.2657

6.251 SEAC also released a statement on CJD in adolescents on the same day:

We note that two cases of CJD have been diagnosed in adolescents in the UK. It is not possible to draw any conclusions from this, as confirmed cases of CJD have been found in the same age group in other countries. In addition, the two cases had no exposure to risk factors for CJD and no contact with BSE. It is essential, however, to study the patients in great detail and consider whether there are any implications for the cause or management of the disease.2658

6.252 In October 1995 a 29-year-old patient was referred to the CJDSU.2659 By 14 December 1995 the Unit had identified ten suspect cases of CJD in patients aged under 50 years.2660 By 31 December 1995 only three of these cases had been confirmed neuropathologically as CJD, although none had been confirmed as vCJD (new variant CJD) because the phenotype had not been recognised at the time.2661

**Born after the ban cases of BSE (BABs)**

6.253 As shown in vol. 16: Reference Material, born after the ban (BABs) cases – that is, cattle born after the ruminant feed ban was introduced that nevertheless succumbed to BSE – had reached a peak in 1994, with 11,569 cases. During 1995 a further 10,369 BABs were recorded. Throughout 1995, MAFF investigated possible deficiencies in the implementation of the ruminant feed ban, including the possibility of cross-contamination in feed mills. MAFF’s response to BABs is described in more detail in vol. 5: Animal Health, 1989–96.
During its 18th meeting, on 10 February 1995, SEAC had considered papers which revealed that cross-contamination at feed mills had occurred in the past, and which also suggested that this was the main reason for BABs. At its 19th meeting, on 21 June 1995, SEAC was advised of MAFF’s programme of unannounced surveillance visits to slaughterhouses to assess compliance with the SBO ban. In relation to what was known so far, the minutes record:

So far, on the basis of a very small sample, it appeared there were some problems with the separation of SBOs and that less than 50% were complying with staining requirements.

The Committee was very concerned at these reports given the previous understanding that the position had been satisfactory. It was now recognised that previous reports based on pre-arranged visits to premises had given a falsely reassuring picture. The Committee felt that, if there was evidence that something was going wrong, action should be taken as a matter of the highest priority. The best hypothesis for the continuing number of BABs now seemed to be that SBOs had continued to leak through the system. If this was the case, BAB cases could continue until 2000.

Pronouncements and publicity in relation to BSE from various quarters

MLC position statement, July 1995

Throughout 1995 the MLC played an active role in the promotion of beef, to counter increasing consumer concerns as to the safety of beef in light of BSE.

In July 1995 the MLC issued the position statement mentioned in the overview at the beginning of this chapter.

The position statement acknowledged that cases of BSE in cattle born after the ruminant feed ban indicated that the SBO ban’s integrity was not 100 per cent, and added, ‘we must now tighten up controls to ensure they are totally effective’. The statement continued:

There are no implications for human health because:

(i) visibly infected cattle are totally destroyed,

(ii) all specified offals from all cattle are removed and destroyed before the meat enters the human food chain and
(iii) despite research there is no evidence whatever that BSE, or its human equivalent CJD, can be caught by man through eating beef.\textsuperscript{2666}

6.259 The MLC discussed BSE at a meeting on 27 July 1995. The Government’s increased control measures were reported, as was the new knowledge underlying these changes, namely that ‘the quantity of infective material required to transmit the infection was lower than originally believed, and that there had been some leakage into the cattle population despite the various bans’. The minutes recorded:

It was noted that MAFF was prepared to prosecute those who persistently failed to comply with these measures, although it was recognised that the publicity associated with a legal challenge of this type would be difficult to handle.\textsuperscript{2667}

MLC response to breaches of SBO controls

6.260 The SBO ban was again discussed in an MLC meeting on 26 October 1995. It was decided that the Chairman should write to the Minister expressing the MLC’s concern about breaches of the controls by abattoirs, and urging him to encourage his officials to prosecute transgressors.\textsuperscript{2668} Mr Don Curry (Chairman of the MLC) wrote to Mr Hogg expressing ‘deep concern’ about the ‘integrity of the controls in place to eradicate BSE’.\textsuperscript{2669} He continued:

For some time now it has been clear that there has been a breach in the integrity of this control system at one or more points and, due to this, we now face the unpleasant prospect of having to deal with consumer reaction and the animal health implications of this disease for at least another four or five years . . .

. . .

We detect an attitude in the industry which says, ‘you have told us this disease was not a threat to humans so why do we need all these controls?’. The danger that such an attitude engenders to our market, both at home and overseas is very worrying indeed.

We therefore believe it necessary for MAFF to send a clear signal to the whole industry that breaking the specified offal or ruminant protein bans will be punished extremely severely by prosecuting one of the offending abattoirs (or others not adhering to the rules).

I regret writing to you in this vein about our industry, but this issue seriously threatens confidence in our excellent British beef. I believe the time is right to take unpopular action in order to preserve the integrity of our industry and its product.\textsuperscript{2670}

6.261 Mr Hogg responded to Mr Curry on 8 November 1995. He thanked him for his concern and stated that the series of audit visits had identified a number of
failings, including apparent leakage of BSE-infected material into animal feed. He said that of much greater concern, however:

are the instances, which you highlight, where small pieces of spinal cord were left attached to carcases after dressing in slaughterhouses. In all cases the SBO was completely removed before the carcases left the premises, but this is a potentially serious failing. As you know, SBO controls are a primary measure for protecting the public from any remote and theoretical risk from BSE, and are seen as such by medical authorities here and abroad. The failure to comply with the controls on SBOs is, therefore, a very serious matter and I am not prepared to accept anything less than 100% compliance.

We have, therefore, taken a number of steps to ensure that the controls laid out in the Specified Bovine Offal Order 1995 are fully complied with. First, the Meat Hygiene Service has reinforced the instructions to its staff to enforce the regulations on SBOs most rigorously. I have discussed this with the Chief Executive and am confident that the Service is well aware of the need to do this. Secondly, where serious failings are found the MHS will prosecute slaughterhouse operators. Thirdly, the SVS have doubled the frequency of their audit visits to slaughterhouses and head boning plants.

6.262 Also on 8 November, Mr Hogg wrote to Mr McNeill of the MHS, instructing him to ensure that appropriate steps were being taken by his staff to ensure that the SBO Order 1995 was being fully enforced. He continued:

Failure to comply with these Regulations is an extremely serious matter. I must therefore ask you to make every effort to secure 100% compliance . . .

I recognise that the primary responsibility for complying with the SBO controls must rest with the slaughterhouse operators. I am, therefore, intending to call in representatives of the appropriate trade associations to make clear to them my concern and displeasure with the current situation, to remind them of their obligations and warn them that any subsequent failings will be treated most seriously and could result in prosecution.

6.263 This culminated in a meeting with representatives of slaughterhouse operators on 9 November and a press release, which confirmed that the MHS expected 100 per cent compliance and would be enforcing the controls rigorously. Furthermore, the MHS would be prepared to prosecute any operator wherever there was sufficient evidence to do so.

MLC statement on MRM

6.264 After the decision to ban the use of vertebral column for MRM, the MLC released a press statement on the prohibition. The statement quoted Mr Colin Maclean, the Director-General of the MLC, as saying that ‘extra precautions would help reassure consumers’.
‘There is no evidence of any link between BSE and the similar human disease, CJD,’ he said. ‘However, in the light of continued irresponsible media attention, which is undermining consumer confidence in meat products, the further precaution is welcome.’

... ‘This change is an extra safeguard to the “belt and braces” already in place. The few products containing this material which are already on sale to the public present no significant risk to consumers.’

**Dr Calman’s statement on the safety of beef, 5 October 1995**

6.265 On 28 September 1995 Dr Calman was informed of a probable case of CJD in a fourth dairy farm worker, who had had a case of BSE in his herd four years previously.2675

6.266 On 5 October 1995 DH issued a press release to coincide with the release of the CJDSU’s fourth annual report. The press release quoted Dr Calman as saying:

I continue to be satisfied that there is currently no scientific evidence of a link between meat eating and development of CJD and that beef and other meats are safe to eat. However, in view of the long incubation period of CJD, it is important that the Unit continues its careful surveillance of CJD for some years to come.2676

**Professor Collinge meets Dr Calman, 31 October 1995**

6.267 During 1995 Professor John Collinge, Professor of Molecular Genetics and Honorary Consultant in Neurology and Molecular Genetics,2677 became concerned at ‘the occurrence of apparently sporadic CJD in extraordinarily young people in the UK’.2678 In particular, he was concerned about two teenagers who were diagnosed with sporadic CJD and considered that these cases were ‘of remarkably young onset’.2679 He felt it was important to document these cases in the literature ‘at the earliest opportunity and encouraged the referring neurologists to do so’.2680 He then became aware of a third young patient with CJD. At this point he participated in a clinical case conference at St Thomas’s Hospital on whether these three cases could represent the transmission of BSE to humans.2681

6.268 On 31 October Professor Collinge had a meeting with Dr Calman at DH. While there:

I gave him an update on our on-going experiments in transgenic mice and communicated my fears concerning these young cases of apparently sporadic CJD.2682
Press coverage in October and November

6.269 In October and November 1995 numerous press articles appeared with headlines which suggested that BSE posed a great risk to human health, and that the true position was being hidden from the general public. It was reported in a *Sunday Times* article that:

Consumers have eaten meat from more than 1.5m cows infected with bovine spongiform encephalopathy (BSE) according to a study by scientists who claim the government has underestimated a potential risk to human health.2683

6.270 Furthermore, the *Sunday Times* on 29 October 1995 reported that:

Blood supplies could be contaminated with the human equivalent of ‘mad cow’ disease according to a leading American scientist. Research by Dr Paul Brown, medical director of the American Public Health Service, has found that more than one in 10 victims of the fatal brain disorder, Creutzfeldt-Jakob Disease (CJD), had given blood before developing the first symptoms.2684

6.271 The *Daily Telegraph*, under the headline ‘Most beef eaters “already exposed to mad cow agent”’, reported:

Most people who ate beef before the start of the ‘mad cow’ disease epidemic will have been exposed to the agent which causes it, doctors say.2685

The ‘World in Action’ documentary on 13 November 1995 and MAFF’s reaction

6.272 On 13 November 1995 Granada Television screened a ‘World in Action’ documentary on BSE. In a letter from Mr William Hague, the Secretary of State for Wales (1995–97), to a concerned constituent, the programme was described as dealing ‘with a serious issue in an irresponsible manner’.2686 On 14 November 1995 Mr Meldrum distributed a note on the five main issues he had identified in the programme, to be used to answer media inquiries. The issues were:

i. The number of subclinically affected cattle entering the human food chain: Mr Meldrum stated that ‘we have always assumed that cattle could enter the human food chain that had been exposed to BSE. It was for precisely that reason that our SBO controls were introduced in 1989.’

ii. An allegation that affected cattle were slipping through surveillance nets at markets and slaughterhouses: Mr Meldrum discussed the procedure for cattle that were recognised and reported as having BSE.

iii. Infectivity in liver: Mr Meldrum discussed the reasons why liver was excluded as an SBO. He wrote, ‘When one looks at all these factors together it has been
concluded that any risk to man is extremely remote from liver or any other offal not covered by the Specified Bovine Offals ban.’

iv. Lack of testing for BSE at slaughter: Mr Meldrum stated that there was no test for live cattle, but MAFF supported a large research programme on this.

v. Whether SBO were removed at slaughter: Mr Meldrum discussed the checking procedures in slaughterhouses and stated:

The Minister has made clear to slaughterhouse operators the importance he attaches to complete compliance with the SBO rules and that prosecution will follow when public health is jeopardised as a result of failure to meet the requirement to remove spinal cord from the split spinal column. The removal of spinal cord from the spinal column is relatively easy (as could be seen in the World in Action film) and there should be no splashing of material onto the carcase. 2687

Public statement by Professor Sir Bernard Tomlinson and media response

6.273 On 1 December 1995 the BBC Radio 4 consumer programme ‘You and Yours’ broadcast an interview with Professor Sir Bernard Tomlinson (Emeritus Professor of Pathology, University of Newcastle upon Tyne). In the interview Professor Tomlinson said:

Until we can say quite positively there really is no evidence now that BSE transfers to humans, until we can say that, I believe we’ve got to pay that price and all offal should be kept from public consumption. But I certainly don’t eat any longer beef pies, for instance, or puree, I wouldn’t eat a burger. 2688

6.274 The interview was publicised in advance on breakfast television 2689 and in newspapers. The Daily Star, in an article entitled ‘Danger in a burger: Health Chiefs warning’, reported that Sir Bernard had vowed not to eat beefburgers for fear of ‘mad cow disease’. Sir Bernard was quoted as saying, ‘I wouldn’t eat a burger at the moment in any circumstances.’ 2690 The Daily Express ran a similar story. 2691

6.275 Mr Haslam told us that the view of such an eminent neuropathologist was significant enough to become a main news item and that the situation had been exacerbated when the BBC established a helpline for listeners to call for advice on how they should react. He stated:

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2687 YB95/11.14/13.1
2688 YB95/12.01/11.2; see also S387 Tomlinson para. 7
2689 YB95/12.01/11.2
2690 ‘Danger in a burger’ at YB95/12.01/10.1
2691 YB95/12.01/9.1
The Meat and Livestock Commission discovered that the advice given by the ‘help-line’ included the suggestion that meat stock-cubes were unsafe. This was a matter of great concern to companies such as Oxo, whose product was derived from South American sources. I made a telephone call complaining to the BBC. However, damage to public confidence had resulted. This led to the reaction from schools with many declaring that they would take beef off their menus.2692

6.276 On 2 December 1995 an article in the *Times* entitled ‘Brain specialist is challenged to justify burger scare’ reported that Sir Bernard Tomlinson had said that he was still eating steak and beef but would not eat beefburgers ‘under any circumstances’.2693 Sir Bernard was reported as admitting that he had no proof of a link between BSE and CJD but that he considered the risk was too great to be discounted. He was quoted as saying:

I certainly would advise teenagers not to eat these things. I have become more cautious because of recent CJD cases in dairy farmers and teenagers. These seem to be more than coincidence. My feeling now is that it is possible BSE is transmitting to humans.

6.277 In response, Mrs Angela Browning was quoted as saying:

I have invited Sir Bernard to tell us why he has come to this conclusion. He does not seem to be basing it on scientific evidence.

6.278 On 13 December 1995 Sir Bernard replied to Mrs Browning.2694 He confirmed that he had no further scientific evidence and that since his retirement from neuropathology he had not attempted to keep up with the literature. However, he stated:

Until a few months ago I thought transmission of BSE to humans unlikely, based on the lack of evidence that scrapie, over many decades, has failed to transmit to humans, or for that matter, to cattle. Despite the doubts now arising about the BSE epidemic resulting directly from the feeding of cattle with infected sheep tissues, that hypothesis remains the only one to work on if human safety is paramount. If scrapie has transmitted to cattle it demonstrates with alarming clarity the dangers of assuming that the species barrier will totally protect humans who ingest beef tissues infected with BSE. That would be so even without the plentiful evidence that the TSEs in most species can be transmitted to other species . . .

What has convinced me of the need to be more cautious is the recent occurrence of CJD in farmers and in adults under 40 years, and particularly in teenagers . . .

Firstly, how strong is the evidence of which organs experimentally are likely to contain the responsible agent and therefore should be excluded, even if the quantity of agent is small? We have no real evidence which excludes the
possibility that repeated ingestion of small doses may be incremental and eventually cause the disorder . . .

Secondly, it seems to me that complicated regulations relating to offal and its destruction, or its permissibility within the food chain, are unlikely to be carried out completely within the production line conditions of the abattoir. Some of the regulations covering SBOs would require time-consuming dissection.

6.279 On 3 December 1995 an article entitled ‘Closing in on a killer’ in the Sunday Times reported that when asked whether he thought beef was perfectly safe to eat Mr Hogg had replied, ‘Yes, I do.’ The article also reported that when questioned about the mounting concern of scientists, he had admitted:

I cannot on the evidence before me give a categoric guarantee that it cannot be transmitted. We believe it cannot be and the scientific evidence suggests it cannot be.

Statement by Mr Dorrell, 3 December 1995

6.280 Following the announcement by MAFF on MRM and the failings in slaughterhouses, discussed previously in this chapter, there was much media interest and publicity on the issue. Mr Stephen Dorrell (Secretary of State for Health) took part in an interview on London Weekend Television on the subject on 3 December 1995. Mr Dorrell discussed the interview in his statement to the Inquiry:

The MAFF announcement on slaughterhouse failings raised renewed concerns about the safety of beef eating. There was widespread media interest. The issue surfaced in the course of an interview which I gave to Jonathon Dimbleby (LWT) on 3rd December 1995. I had been invited onto the programme to discuss the National Health Service, but in view of the topicality of BSE Mr Dimbleby commenced the interview by asking about the government’s assessment of the risk that BSE could be transmitted to humans in the form of CJD. I said that science suggested that there was no link, but even if science was wrong on that subject, government had removed from the human food chain the organs that could conceivably be linked to a transmission. Mr Dimbleby said ‘So, there is you are saying no conceivable risk from what is now in the food chain; that’s the position?’ and I responded ‘that is the position.’ I regretted that response because Mr Dimbleby’s summary of my words went further than the words of the Chief Medical Officer. As a consequence of this interview, I was reported in some newspapers the next day as having said that there was no conceivable risk from eating beef.

6.281 Mr Dorrell’s statement attracted great media attention. The following day the Times, in an article entitled ‘Dorrell tries to allay BSE beef fears’, reported that Mr Dorrell and Dr Kenneth Calman (CMO) had ‘issued the assurance in the face of growing doubts by eminent scientists about the safety of beef’. The article said
Mr Dorrell would let his children eat hamburgers, and made the same pledge on behalf of Dr Calman.\textsuperscript{2697}

\textbf{6.282} An article in the \textit{Daily Telegraph} entitled ‘Dorrell rules out BSE ban on beef offal’ said that Mr Dorrell had rejected calls for a total ban on cattle offal, and maintained that science suggested no link between BSE in cattle and CJD. The article again quoted Mr Dorrell’s television interview:

Even if the science was wrong on that subject, we’ve removed from the human food chain the organs that could conceivably be linked to a transmission.\textsuperscript{2698}

\section*{The MLC’s advertising campaign}

\textbf{6.283} In response to the increasing alarm in the press over risks to human health, the MLC decided to launch an advertising campaign. This was to include the insertion of advertisements into national newspapers, the issue of a question-and-answer pack for independent retailers and an information pack for staff in multiple retailers to deal with questions about BSE.\textsuperscript{2699}

\textbf{6.284} On 3 December 1995 MLC issued an advertisement in the \textit{Sunday Telegraph} entitled ‘If you’re in two minds about serving beef, a chance to digest the facts’.\textsuperscript{2700} This was initially intended to be an information handout to butchers. However, because of an upsurge in public interest as a result of the television programmes (see paragraphs 6.272–6.275), the MLC decided to publish the statement.\textsuperscript{2701}

\textbf{6.285} In summary, this advertisement listed the following so-called ‘fictions’ and ‘facts’ about British beef:

\begin{itemize}
  \item \textbf{Fiction} There is a link between [BSE] and [CJD].
  \item \textbf{Fact} Not so. BSE . . . is an animal disease which affects only cattle. CJD affects only humans. There is no evidence whatever of any link between them.
  \item \textbf{Fiction} BSE is on the increase.
  \item \textbf{Fact} Wrong. Reported cases peaked in early 1993 and have since fallen sharply. They are currently less than half the peak level and still falling.
  \item \textbf{Fiction} CJD is on the increase.
  \item \textbf{Fact} Wrong again. The incidence of CJD is not only statistically minute (it affects about one person in a million) but has remained stable for as long as records go back.
  \item \textbf{Fiction} If you don’t eat beef, you’ll have a better chance of avoiding any risks.
  \item \textbf{Fact} On the contrary, CJD has been recorded in vegetarians as well as meat eaters, and occurs at much the same rate in countries where BSE is not even present.
\end{itemize}

\textsuperscript{2697} YB95/12.04/10.1
\textsuperscript{2698} Ibid.
\textsuperscript{2699} YB95/11.23/6.2
\textsuperscript{2700} M44 tab 12; see also S147 Maclean para. 53
\textsuperscript{2701} T108 p. 84
Fiction

There must be some truth in the scare otherwise they wouldn’t be taking so many control measures.

Fact

No, the truth is that the control measures are implemented to reassure the public.

Fiction

Control measures are just an empty gesture.

Fact

Far from it. British veterinary and abattoir regulations, along with their enforcement, are as strict as the strictest in the world . . . With such stringency, even the remotest perceived risk is avoided.

Fiction

They talk about beef being safe but some forms of beef are probably safer than others.

Fact

Beef is beef is beef. Be it prime cuts, mince, burgers, pies or sausages. All play a key role in providing the nation with a healthy, balanced diet. Enjoy it, just as you have always done.

Fiction

The weight of opinion suggests beef is not safe.

Fact

Not at all. British beef has been endorsed by independent scientists, world health organisations and government authorities, both in the UK and European Union.

6.286 The advertisement concluded by quoting Dr Calman as saying, ‘British beef is perfectly safe to eat.’

6.287 On 4 December 1995 Dr Metters (Deputy CMO) faxed Mr Carden (Food Safety Directorate, MAFF) regarding the MLC statement. He stated:

I do not know what influence or control your Department has over the Meat and Livestock Commission. However, if the Commission are intending to quote the Chief Medical Officer in their future publicity, I hope you can make the point with them that they must use accurate quotations and not embellish them with their own spin.

The CMO’s public statements have been that ‘beef is safe’. The word ‘perfectly’ has not been used by Ken Calman or his predecessor, Sir Donald Acheson. For complete accuracy the word ‘British’ has not been used recently either.

. . . It is not in their interests or ours for the CMO’s words to be manipulated so that he has no alternative but to issue a public clarification of his position.

6.288 Mr Carden responded on 5 December accepting the ‘force of the criticism’. He stated that the MLC was an independent organisation and not part of the Ministry, but that he had passed the point on and received an assurance that MLC had no intention of distorting the CMO’s words on this occasion and would aim to avoid doing so in the future.

6.289 The advertisement was later re-run on 10 December 1995 in the Mail on Sunday and the Independent on Sunday, with slight changes.

2702 YB95/12.04/4.1
2703 YB95/12.05/6.1
2704 M44 tab 12
the above summary of the advertisement was omitted, as was the statement from the CMO. Instead, the new advertisement was endorsed by a quotation from Dr Robert Will (Director of CJD Surveillance Unit and Deputy Chairman of SEAC\textsuperscript{2705}) stating:

I do not believe there is a significant risk from eating beef and I have therefore not altered my consumption of beef or beef products, neither has any of my colleagues at the CJD Surveillance Unit.

6.290 The Advertising Standards Authority received complaints about eight aspects of the advertisement. In July 1996 the Authority upheld five of the complaints against the MLC.\textsuperscript{2706}

**Ministerial reaction to media coverage about BSE**

6.291 On 5 December 1995 a two-page briefing on BSE and CJD was provided to the Prime Minister, Mr John Major, to help him prepare for Prime Minister’s Questions.\textsuperscript{2707} This gave a brief overview of BSE as well as discussing the remarks made by Sir Bernard Tomlinson. The briefing stated that Sir Bernard had caused ‘unnecessary and unjustified alarm about the safety of beef products such as burgers and pies’ and that he had been invited to submit any new evidence for SEAC to consider.

6.292 Also on 5 December 1995 Dr Metters wrote to the Editor of the *Times* about ‘increased recent speculation’ of a causal link between BSE and CJD. He said that the CJDSU and SEAC had been established to advise on this, and that the CMO ‘has consistently stated that if he became aware of evidence that BSE was causally linked to CJD he would immediately advise the public. There is, however, no current scientific evidence that BSE can be transmitted to humans.’\textsuperscript{2708}

**Mr Hogg briefs the Cabinet**

6.293 On 7 December DH sent a further two-page briefing to the Prime Minister on CJD and BSE which had been agreed by Dr Calman and Dr Metters.\textsuperscript{2709} On the same day the Cabinet met, and Mr Hogg updated his Cabinet colleagues on the BSE situation. In particular the minutes note that:

. . . there had been a renewal of intense media interest in the possible dangers to human health from Bovine Spongiform Encephalopathy (BSE) fuelled by doubts expressed by a number of eminent scientists. There had been no change in the scientific evidence underlying the Government’s stated view that there was no reason to believe that BSE could be transmitted to humans.\textsuperscript{2710}

6.294 Mr Hogg commented that ‘in response to recent incidents and in order to reassure the public’ he had issued a draft order that day banning the use of bovine vertebral column in the production of MRM.\textsuperscript{2711} During the discussion the point was

\textsuperscript{2705} Deputy Chair from April 1994, and previously a member of SEAC and the Tyrell Committee
\textsuperscript{2706} YB96/7.00/9.1
\textsuperscript{2707} YB95/12.05/14.1 and YB95/12.05/15.1; see also S400 Major para. 81. It is unclear who provided this briefing
\textsuperscript{2708} YB95/12.05/7.1
\textsuperscript{2709} YB95/12.07/13.1
\textsuperscript{2710} YB95/12.07/14.4

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made that ‘the Government should continue to try to keep discussion of BSE on as open and non-partisan level as possible’. The importance of marshalling ‘independent scientific opinion in support of the Government’s case at the earliest moment possible’ was also noted. And further:

The Chief Medical Officer and Chief Veterinary Officer ought to be by far the most convincing spokesmen for the Government on the key question of whether BSE could be transmitted to humans.

6.295 There were also concerns about meat products containing MRM produced prior to the order banning the use of vertebral column that were already on sale; in particular, whether they would have to be withdrawn from retail outlets.

6.296 In summing up the discussion,

THE PRIME MINISTER said that there was a disturbing degree of public anxiety over BSE once more and that the Government must be ready with an immediate and coherent response. The key element in that response should continue to be the assurance from the Government’s chief professional advisers that there was no evidence that the disease could be transmitted to humans.

6.297 In order to clarify the line to take on the safety of meat products that were already on sale, the Prime Minister invited the Lord President of the Council, Antony Newton, to meet with the four Agriculture Ministers, the Secretary of State for Health and the Chief Secretary, Treasury with the CMO and the CVO in attendance. The meeting took place on 7 December and Mr Hogg followed up the meeting by writing to the Lord President on 8 December summarising the steps that he was proposing to take. The letter was copied to the Prime Minister, Cabinet colleagues, Sir Robin Butler and Dr Calman. Mr Hogg outlined the control measures that MAFF had already taken, such as the slaughter and compensation policy and the SBO ban. He then outlined the proposed draft Order on MRM. A ‘line to take’ briefing note was attached to Mr Hogg’s letter. In relation to MRM, the briefing note stated:

SEAC considered whether any products containing bovine MRM which have already been manufactured should be removed from the shops. SEAC recommended that MRM from bovine vertebral columns should not be included in human food. The Chairman has confirmed that it is not necessary to remove any product containing such bovine MRM from the shelves. The Chief Medical Officer similarly sees no need for any existing products to be withdrawn, and has not advised that this should be done.

If either the Chief Medical Officer or SEAC were to make any such recommendation, we would of course follow that advice.
MAFF Ministers meet to consider next steps

6.298 On the afternoon of 7 December 1995 MAFF Ministers met with officials ‘to discuss the latest state of play on BSE’. The meeting discussed issuing a SEAC letter to the newspapers. It was agreed that Mr Meldrum and Mr Carden would discuss this with Professor John Pattison, but that the actual wording would not be suggested and it would be up to the Professor to express the issues in his own terms. Mr Hogg said that ‘he had not ruled out the possibility of paying for space, possibly to publicise the SEAC paper’.

6.299 At the meeting it was also agreed that Mr Eddy would start drafting a set of questions to be put to SEAC with a view to publishing the answers. The questions put to SEAC and SEAC’s answers are discussed in Chapter 7 of this volume. Further, it was agreed that Mr Hogg would hold a press briefing on 14 December 1995, accompanied by Professor Pattison, Dr Calman and Mr Meldrum, and that the MAFF Ministers would write to leading parliamentarians setting out the latest position on BSE in full.

6.300 The arrangements for the intended press briefing were discussed at a further meeting between MAFF Ministers and officials on 11 December. The meeting also discussed the role of SEAC. A note of the meeting was sent to Mr Eddy and copied to others in MAFF. On the issue of the questions to be put to SEAC, the note recorded:

It was agreed that there remained a need to take steps to ensure that accurate and up-to-date facts and figures got into the public domain. The Minister said that he still wanted to put to SEAC a range of basic questions, the answers to which could be put into the public domain. Mr Meldrum was concerned about the load which we were putting on the first meeting of SEAC in the new year. They would require at least half a day for their discussions on the BSE research programme. Mr Taylor suggested that there might be advantage in asking a member of SEAC itself to draft the answer to the questions (i.e. not leave the task to you, the Committee’s Secretary, given your obvious connection with MAFF’s own work on BSE). The Minister was attracted to this idea, which he would put to Professor Pattison.

6.301 Mr Eddy commented on this meeting in his statement to the Inquiry:

On 11 December 1995 I attended a meeting with the Minister and others about the press conference announcing the MRM legislation and the need for a more comprehensive presentation of the Government’s position and clarification of the role of SEAC. This involved confirmation that the Minister wanted SEAC to answer a range of basic questions which could then be put in the public domain. There had been an earlier meeting which I did not attend and I had also minuted colleagues about my own thoughts on improving links with consumer groups. The package prepared for the press conference included an open letter which Professor Sir John Pattison and
Dr Will wrote to the Secretary of State for Health and the Minister of Agriculture, Fisheries and Food setting out the position at that time.\(^{2725}\)

**Beef in schools**

**6.302** We described in Chapter 4 how concerns had been raised in May 1990 about the safety of beef in school meals. These concerns became prominent again in late 1995. *The Times* reported on 5 December 1995 that half of the 130 primary schools in West Glamorgan had taken beef off the menu.\(^{2726}\)

**6.303** On 7 December 1995, in an article entitled ‘Schools told to ban beef’, the *Guardian* reported that the Local Authorities Catering Association (LACA), which had been receiving hundreds of calls from worried parents and head teachers, had advised school cooks to substitute turkey, chicken and pork for beef.\(^{2727}\) The article reported that individual schools had already done this and that two local authorities were operating a ‘blanket ban’. It further claimed that fears had been brought to a head following Sir Bernard Tomlinson’s warning about allowing children to eat beefburgers.

**6.304** Also on 7 December 1995 Dr Kendell (Scottish CMO) issued a statement in response to media interest and reports that schools and caterers were starting to remove beef from menus.\(^{2728}\) The statement said:

> The Government’s independent scientific advisers are saying consistently that there is no evidence at all that eating beef or other foods derived from beef is dangerous. My general advice to people is therefore to carry on eating what you want to eat as you were before.

> We have no evidence of any connection between BSE and CJD. However, both conditions are being closely monitored and studied by scientists, in this country and abroad, as there is much about both that is still unknown.\(^{2729}\)

**6.305** Dr Kendell’s statement is discussed further in vol. 9: *Wales, Scotland and Northern Ireland*.

**6.306** *The Times* reported Mrs Browning as saying that parents were ‘overreacting’.\(^{2730}\) On 8 December the *Independent* reported that more than 1,150 schools had either completely removed beef from their menus or were offering alternatives.\(^{2731}\)

**Article in the Independent by Dr Robert Will**

**6.307** On 8 December 1995 the *Independent* published an article by Dr Will entitled ‘No significant risk from beef’. Among other things, he said:
Transmission by the oral route in these diseases is extremely inefficient, requiring exposure to large doses of infectivity.

... The crucial issue is the level of exposure to infection and this may be the reason why BSE has transmitted to other species rather than implying a more potent infectious agent. It is of note that there are many zoo species which must have been exposed to BSE through food stuffs but have not developed a spongiform encephalopathy.

From the perspective of human health, it is clearly essential that people are not exposed to levels of infection that might cause disease, if the BSE agent were a risk to man.

... The recent upsurge in interest in CJD has been prompted by a number of factors: an increase in the total number of cases of CJD in the UK, the occurrence of CJD in four farmers with potential occupational exposure to BSE, and the identification of two cases of CJD in teenagers. The incidence of CJD remains similar in other countries in Europe and also elsewhere, indicating that there is no relative increase in the incidence of CJD in the UK that can be attributed to BSE. The likely reason for the increase in numbers of cases is that there has been an improvement in identification of cases of CJD both in the UK and elsewhere.

The occurrence of CJD in four farmers is less easy to explain and is understandably causing concern. However, no means by which BSE could be transmitted through farming has been established and the incidence of CJD in farmers in Europe is similar to the UK. Again, there appears to be no increased relative risk in the UK to farmers that can be related to BSE.

The occurrence of CJD in teenagers is tragic, but cases of CJD in teenagers have been described previously in other countries where there cannot be a link with BSE. There is also the possibility that cases of CJD in younger patients may previously have been missed because of misdiagnosis...

In my opinion, there is a risk of over-interpreting small numbers of cases, and statistical analysis may be unreliable...

No link between BSE and CJD has been established, but the possibility of such a link cannot be excluded for many years because of the long incubation period in these diseases. In my view, the possibility of such a link remains theoretical...

This is why the SBO ban is so important and why I believe the risk from eating beef is negligible... I do not believe it is reasonable to conclude that there is significant risk from eating beef. I have therefore not altered my consumption of beef or beef products, and neither have any of my colleagues at the CJD Surveillance Unit.
6.308 Dr Will told the Inquiry that, following the publication of this article, Mr Colin Maclean of the MLC faxed to him a draft advertisement which was to appear in the press, entitled ‘If you are in two minds about whether to serve beef, a chance to digest the facts’ (see also paragraphs 6.283–6.290). The advertisement now contained a quotation from the article in the Independent. Dr Will said that he telephoned Mr Maclean to say that he was concerned about the draft advertisement because the quotation was incomplete and misleading, and because he was not happy with the tone of some of the ‘fact/fiction’ statements it made. He suggested amendments but was not sent a further draft and was not asked to approve the advertisement prior to its publication. He was therefore surprised to see that, while the advertisement quoted him more fully, it did not include other amendments he had suggested. In oral evidence he stated:

... I was unhappy because I had written this, and it was a quote from an article I have written; and I felt that it would be inappropriate for me to say that no one could quote it. But I felt very uneasy about this quotation being associated with some other statements that I was deeply unhappy about.2733

6.309 However, Mr Maclean’s evidence to the Inquiry was that the telephone call with Professor Will had been ‘positive and good-natured’ and he did not recall ‘Professor Will expressing any reservations about the tone or contents of the proposed advertisement’.2734 He then listed seven reasons in support of this. These were:

i. He would have remembered if Professor Will had expressed such reservations as he had a long-standing and amicable relationship with him;

ii. If Professor Will had recommended such changes he would have discussed them with him and others at the MLC. The conversation was about five minutes long and he did not discuss it with others at the MLC;

iii. He agreed to change the quotation at the end of the advertisement in the way requested to Professor Will. Mr Maclean believed that this was a positive change as in his opinion it strengthened the advertisement;

iv. He does not remember Professor Will asking to see an amended draft but if he had done so Mr Maclean would have provided one and if necessary delayed the publication;

v. Professor Will did not express any concerns to Mr Maclean or any other member of the MLC once the advertisement had been published;

vi. Mr Maclean recalls Mr Gwyn Howells (Marketing Director of the MLC) being in the room during the telephone conversation and that ‘he was happy with the amendment’;

vii. A minute from Mr Meldrum to Mr Carden on 15 December2735 noted that Mr Meldrum understood that Professor Will gave permission for the advertisements and suggested words that strengthened the message.2736
6.310 Professor Will responded to Mr Maclean’s statement in a further written statement. He agreed that Mr Maclean faxed him a copy of the draft statement on which he made various annotations. These included a ‘marginal’ line against the third ‘fact’, scribbling out the fifth ‘fact’ and ‘fiction’, and another ‘marginal’ line against part of the sixth ‘fact’. He ringed the word ‘safe’ in the next step of statements and added the words ‘CJD Surveillance Unit’ at the end of the quotation. He then stated:

I was unhappy when I saw the advert published because I did not think that it accurately reflected my views in that it linked my name to each of the facts/fiction statements in the body of the advert and I had not been shown a copy of the final version of the advert before it was published . . .

I considered what action I should take when I saw the advertisement and I sought advice from my medical defence organisation. I was advised that it was best not to pursue matters and there the matter rested until I was contacted by the Advertising Standards Agency. I had made no secret of my unhappiness with the advert and colleagues of mine would have known my feelings.

Professor Pattison and Dr Will send a letter on behalf of SEAC to The Times and then to Ministers

6.311 On 8 December 1995, Professor Pattison and Dr Will sent a letter to the Times outlining ‘the position with regard to BSE and human health from the point of view of the specialist advisory committee, SEAC’. They requested that this be published, and advised that they had copied the letter to DH and MAFF for information. Professor Pattison told us that the Times offered to publish the letter in an edited form only. The offer was declined and the letter was adapted so that it became the letter dated 13 December 1995 discussed in paragraphs 6.313–6.314 below.

6.312 On 9 December 1995 the Independent, in an article entitled ‘Top scientist challenges official line on beef’, reported that Professor Pattison ‘refused to support’ Mr Dorrell’s statement that there was ‘no conceivable risk’ of BSE spreading to humans (3 December 1995). Professor Pattison was quoted as saying, ‘I freely admit that we cannot yet give anyone absolute guarantees’ and that ‘it’s not possible at this moment to give the proof there’s no connection between BSE and human disease’.

6.313 An adapted version of the earlier letter that Professor Pattison and Dr Will had sent to The Times was prepared and dated 13 December 1995. It was addressed to Mr Dorrell and Mr Hogg. In the introduction the letter stated:

During the last two weeks we have been asked many questions about BSE, CJD, the public health and British beef. There has only been time for a one or two sentence response to some specific questions. The diseases, the agents
that cause them and the public health aspects are complex issues and the situation we find ourselves in late 1995 deserves fuller description . . .

6.314 The letter then gave a brief outline of transmissible spongiform encephalopathies (TSEs), scrapie, BSE, CJD, SEAC and the key measures taken by the Government to date. It stated:

On the basis of the measures taken SEAC has a high degree of confidence that the beef reaching the shops is safe to eat. We are equally confident that offal which is not included in the ban, for example liver, is safe to eat because no BSE infectivity has been found in liver, either from infected cows or from experimentally infected calves . . .

The restrictions on the use of bovine offal have been strengthened since they were first introduced in 1989 and, through inspections, the application of these bans is being much more rigorously applied. If there was any risk to human health from BSE, and there may be none, then we have no doubt that that risk is very much less in December 1995 than it has ever been. There is therefore no need to take extreme measures with respect to the British beef that is allowed to enter the human food chain.2743

6.315 This letter was given to reporters at a press conference attended by Mr Hogg, Mrs Browning, Dr Calman, Professor Pattison and Mr Johnston McNeill (Chief Executive, Meat Hygiene Service) on 14 December 1995.2744 Mr Hogg explained the four specific reasons for the press conference, stating:

the first is to launch the latest progress report, which we produce every six months;

secondly, I am introducing new laws on the production of mechanically recovered meat, that was discussed and announced a few weeks ago and the orders were signed today:

thirdly, we are taking this opportunity to enlarge the Advisory Committee and we are appointing four new members to that committee and the Professor is well placed to explain why and, in greater detail, who;

and this is also very much an opportunity for you, as I say, to ask questions about the problems, concerns and anxieties regarding BSE.2745

6.316 When asked whether, on the basis of the new regulations, beef was safe Mr Hogg replied:

It is our belief that British beef is safe. The two principal arguments that we put forward is firstly that there is no scientific evidence that BSE in cattle can be communicated to humans. And against the possibility that one might be wrong, we do have these very tight controls in the slaughterhouses to prevent any risk of SBO material getting into the human food chain.2746

2743 YB95/12.08/29.4
2744 M11B tab 16 (transcript of press conference)
2745 M11B tab 16 p. 3
2746 M11B tab 16 p. 6
The panel was asked why MRM had not been banned in 1989, to which Professor Pattison replied:

I think the answer is it always was banned, the spinal cord, right from the very beginning of the ban. The difference in 1995, and the new information that we had, was not about the nature of tissues which we should ban but whether or not the regulations were being observed to as near perfect as possible. We found, as has already been said, that on a series of unannounced inspections in September and October of this year, there was a failure to remove the entire spinal cord, in other words small pieces were left behind in a small number of animals. 2747

Mr Hogg was also asked whether it was confusing and alarming for the public to be told, on the one hand, that British beef was absolutely safe when, on the other hand, new measures tightening up the regulations were being introduced. He responded:

We do believe that British beef is wholly safe for the reasons that we have outlined on a number of occasions. We have an independent advisory committee chaired by Professor Pattison to see whether there are any further steps that we can sensibly take. It would clearly be wrong not to accept their advice. The advice they have given with regard to mechanically recovered meat is out of an abundance of caution but it seems to me to be good advice and so we took it and I hope very much that sensible people looking at the facts and considering the duties of Government would accept that it is our obligation to take such advice because public health is our overriding concern. 2748

On 15 December 1995 the SBO (Amendment) Order 1995 2749 took effect. On the same day the Daily Telegraph, in an article entitled ‘Science task-force recruited to test human BSE link’, reported Mr Hogg as having said that beef was ‘wholly safe’. 2750 The following day the Guardian published an interview with Dr Calman entitled ‘The doctor will see us now’. Dr Calman was quoted as saying:

We say that beef is safe. That is not to say, please go and eat beef. All we say is that, on all the evidence, we believe it is safe. Safe, that is, up to a point. We take the science and stretch it as far as we can and then give the best possible advice we can. 2751

Explanation of the background to the letter from Professor Pattison and Dr Will to Ministers

Professor Pattison said in a written statement to the Inquiry that the general purpose of the letter to the Ministers was to:
... lay out the thoughts of SEAC members about a number of issues that were being widely, but briefly and simplistically, reported by the press and media at the time.2752

6.321 More specifically, the intention of the letter had been to put the debate about beef into its ‘proper context’ and to move away from simplistic statements about whether beef was safe to eat or not. For this reason it ‘explicitly did not say that beef was safe in absolute terms’.2753

6.322 Professor Pattison noted in his statement that SEAC had already received reports of non-compliance with the SBO ban by the time the letter was written.2754 In Professor Pattison’s view, no-one from DH or MAFF who read SEAC minutes, or attended their meetings as members of the secretariat or as observers, could have been in any doubt about SEAC’s concern or the committee’s view on the need for rigorous compliance with the ban. He told the Inquiry:

The letter was addressed to Ministers who had access to official advice if they did not understand the conditions upon which SEAC’s advice was given.2755

6.323 Professor Pattison was also of the opinion that the letter made it clear that SEAC was expressing a view on the safety of beef ‘then reaching the shops’ by referring to the risk as ‘very much less in December 1995 than it has ever been’.2756 Professor Will also said in written evidence to the Inquiry that it was clear the letter related to the situation as at 13 December 1995 and ‘was not a comment on whether there had ever been a risk from beef or beef products’.2757

**Concern from the British Retail Consortium (BRC)**

6.324 On 8 December 1995 Mr John Morris (Secretary to the British Retail Consortium Meat Committee) wrote to Dr Calman referring to ‘Media Misinformation on the BSE – CJD link’.2758 He stated:

I am writing on behalf of the Meat Committee of the British Retail Consortium, that represents both the major multiples and independent butchers. We want your assistance to redress the damage being done to the sales of beef by the current media hype trying to link the consumption of beef with the human disease CJD.

The recent statement by Professor Sir Bernard Tomlinson has yet again fuelled the debate. Assurances from the Minister of Agriculture and the Meat and Livestock Commission have failed to satisfy worried customers as they are both seen to be representing the interests of the farming industry .

The BRC Meat Committee is dismayed at the level of public concern about beef created by the negative way that the media is representing the subject
and would appreciate an opportunity to discuss with you the ways of presenting a more balanced view.

6.325 Dr Calman responded stating:

I understand the BRC’s concern and appreciate how the current media interest in BSE and CJD may be affecting your members. However, both Ministers and I have made clear statements about the safety of beef which have been widely reported and can be quoted. I am not, therefore convinced that it would have been productive to meet with you to discuss the media’s representation of the subject . . .

MAFF are also providing information on BSE and CJD to interested parties and you may find it helpful to contact Mr Tom Eddy, the MAFF policy official for BSE. 2759

6.326 Ms Janet Nunn (Director of Food and Drink, BRC) 2760 told the Inquiry:

As I recall, that there was not sufficient understanding or appreciation of the challenges that retailers and maybe others faced in handling customer and media inquiries. There was a frustration that the overall message was still that beef was safe, and this work was ongoing. And no real question about its safety. And yet we were being left alone to make statements to various parts of the press . . . the Meat Committee thought it would be useful to go through this with the Chief Medical Officer because, as I recall, he was not making statements at that time. He was not high profile. I think indeed at the time it was not even part of the remit of the Chief Medical Officer to make statements to the public. I think his remit was to make statements to the medical profession on the whole and to advise the Ministry, rather than speaking out directly. We wanted to engage him in helping us address some of the information challenges that we were facing. 2761

6.327 With regard to the CMO’s reply, Mr Stephen Ridge (Quality Assurance Executive, Somerfield Stores) told us:

. . . in fairness in December it was the first time we were probably getting some official view that there was dissent on the statement that British beef was safe . . . Because Sir Bernard Tomlinson was involved if I remember rightly in giving advice to MAFF.

. . .

What we required was clarification. Was this a change in the advice being given? If it was we needed to know, because if it was then we needed to take some action. Obviously the reply came back saying: ‘No, No, it is not. There is nothing to worry about. The position has not changed.’ 2762

6.328 Dr Alistair Robertson (Director of Technical Operations, Safeway Stores plc, and member of the Food Technical Advisory Committee, BRC) told us:
I think the issue is that whilst the official line was that beef was safe we were being questioned by our customers, and by the media at this point to make statements, and we did not have all the facts or evidence on which to make those statements. We could only continue to support the Government’s line.

... Bearing in mind we were dealing with people’s perceptions, whilst the official line that beef is safe, we were seeing continuous changes to policy over the previous three or four years where we are adding additional steps into managing the beef supply chain. If you are sitting outside of that as a consumer you are seeing all of this happen and you are asking the question: Why are we doing all of this when all the way along we have been saying ‘beef is safe’? 2763

The MLC takes further action after the press conference

6.329 Following the press conference on 14 December (see paragraphs 6.315–6.318) the MLC interviewed Professor Pattison with the intention that footage taken could be used as part of a television advertisement. Three short films were then made overnight. 2764 However, in a minute to the Minister on the following day Mr Richard Packer noted that:

We received reports in the course of the day that the precise presentation by sliding straight from Professor Pattison to a simple statement about British beef, without any explanation of context, might come across in a way which could be interpreted as associating Professor Pattison unduly with the beef lobby or, in other words, could be used to justify claims that he lacked independence. 2765

6.330 As a result Mr Packer had arranged for Mr Carden and Mr Haslam to advise Mr Maclean not to use Professor Pattison’s interview for the purposes of the advertisement. He agreed not to do so. Mr Packer further noted that ‘I think this area is one in which we must continue to be exceptionally vigilant if matters are not to become even more difficult’. 2766

6.331 Mr Maclean wrote to Mr Packer on 18 December outlining what he perceived to be the ‘way forward’. He noted that consumer confidence was lower than in 1990 and that neither MAFF nor the MLC had the credibility to provide the necessary assurance to the public. Furthermore, he remarked that the press conference of 14 December, ‘though very ably conducted, did not produce the desired result. If anything, it unfortunately fuelled the concerns.’ 2767

6.332 Mr Maclean then set out what he thought needed to be addressed. Firstly, he believed that the journalists were too entrenched in their views on BSE so it would be necessary to talk directly to the consumer. He believed that the way to talk directly to the consumer would be through a coordinated media campaign utilising television and newspaper advertising alongside good public relations. Furthermore:
The source of information has to be the reputable scientists. At the present time only the members of SEAC fulfil this requirement (and are not wobbling) and Pattison and Will are the most authoritative (to the public). We therefore need to use these two for the general message and supplement them as necessary with third party scientists who can speak authoritatively on specific parts of the science (e.g. Dr. Rosalind Ridley on primate work).\textsuperscript{2768}

6.333 Mr Maclean went on to discuss the fact that if media space was purchased the source had to be attributed. Because of the lack of credibility of MAFF and the MLC, which he had previously discussed, he believed that it would be better to attribute the advertisement to either DH or, failing that, ‘British Meat’.

6.334 Mr Meldrum was asked to comment on Mr Maclean’s letter. In a confidential letter to Mr Richard Carden, copied to Mr Martin Haddon, Mr K Taylor and Mr Thomas Eddy, he stated that:

I have considerable sympathy with the frustrations which he voiced. I understand that both Professor Pattison and, more surprisingly, Dr Will are willing for MLC to utilise their words in advertisements. Indeed, Dr Will not only gave permission for the adverts which appeared in some papers on 10 December, but suggested words which strengthened the message.

MAFF and MLC objectives are complementary, but not identical. Their expertise in public relations is probably considerably greater than ours. The problem is that a sceptical public is not over inclined to believe advertisements either, especially when sponsored by the MLC. As Colin [Maclean] points out himself, their credibility leaves as much to be desired as ours. It is probably correct that our best hope of influencing events is to utilise independent scientists who are able to communicate complex ideas in simple, clear language. But we will always be at a disadvantage, constrained by the need to tell the truth (which usually means admitting a degree of uncertainty), which is not a consideration that affects all our opponents.

We need to protect the perceived independence of SEAC against those who are only too eager for various reasons, to discredit it. On the other hand we are all anxious – MAFF and DoH no less than MLC – that their expert opinion is publicised . . .

But, although providing expert input into MLC activities when appropriate, MAFF needs to distance itself from the MLC, and be seen to be disinterested. We are, after all, guardians of the public health, whether the public chooses to acknowledge the fact or not.

. . . We should place ever more reliance on independent experts to get the message across and those related to the DoH. I certainly accept that MAFF has no credibility on the safety of beef – we should restrict our public utterances to animal health.\textsuperscript{2769}
6.335 Following his letter to Mr Packer, Mr Maclean arranged a meeting for 22 December 1995 with senior MAFF officials and the Chairman of Richmond Towers, a public affairs agency and the MLC’s advertising agency, to discuss the need for a better communication strategy. Mr Maclean has stated that at the meeting he emphasised:

the concern of the MLC about dwindling public confidence in beef and the urgent need to redress the imbalance in the debate on BSE by better communications with the public. For this purpose, short, simple and clear statements by independent and eminent scientists were needed. The public perception was that statements by MAFF and the MLC were less credible because they were less independent . . . MAFF did reveal that it had already decided to deal with the issue by putting some succinct questions to SEAC for its meeting on 5 January 1996 and hoped that equally succinct answers would emerge which could then be used for public information purposes. I believe that Richard Packer ran through (although not verbatim) the list of questions which MAFF then had in mind. I believe that these were jotted down by the Chairman of the MLC’s public affairs company.

Statistics and presentation

6.336 Also on 15 December 1995 Mr Eddy minuted Dr Ailsa Wight (DH Head of HEF Division). He said:

1. I have been thinking about ways in which we can try to get across to people just how small the risk from CJD currently is. Clearly the one in a million mortality rate does not seem to get through. I wonder whether we could look at it in another way.

2. My back of the envelope calculations suggest that about 800,000 people a year die of which 50, ie. 1 in 16,000, die of CJD. I would quite like to draw up a table with the real figures if you could get hold of them from somebody in DH on mortality rates for different diseases showing, say, for 1994, total number of deaths, total number from CJD, total number from cancer, heart disease, road accidents and total number believed to be related to smoking and to drinking and possibly to other avoidable risks if you can think of any. We could then perhaps use this as another way of trying to get people to look at this particular issue in a more balanced context. Do you think this is a good idea and could you try and get hold of the necessary figures?

6.337 Later, Dr Wight forwarded Mr Eddy’s minute to Mr W R Hageman, stating:

You will be aware of all the recent publicity surrounding BSE and the reported links with CJD (which all the evidence suggests are unsubstantiated).
I agree with Mr Eddy that the approach he suggests could be helpful presentationally to the Department, and I would be grateful if you could provide the sort of data he outlines for comparison with CJD deaths.2775

CJD suspected in an abattoir worker

6.338 On 21 December 1995 Dr Wight minuted Dr Calman about a suspect case of CJD in an abattoir worker.2776 She stated:

If confirmed, this would be the first such case. I understand he is a middle-aged man who worked in an abattoir until 4 years ago . . . There will be an opportunity for SEAC to consider possible implications, if necessary in the light of the [CJD Surveillance] Unit’s investigations, on 5 January.

6.339 In a further minute the following day, Dr Wight provided more information about the abattoir worker.2777 She noted that the case had been reported in the Guardian newspaper.2778 She said that she had spoken to Dr Will, who had said that it must be regarded as a ‘possible’ case. She added that a second case was mentioned in the newspaper but that the CJDSU did not know about this.

6.340 On 22 December 1995 various newspapers reported that an abattoir worker had been admitted to hospital with symptoms of CJD.2779

Discussion

CMO’s press release of 5 October 1995

6.341 The CJDSU’s Fourth Annual Report covered findings of the Unit up to 30 April 1995. It was released on 5 October 1995, together with a press release issued by DH.

6.342 The press release included a statement by SEAC about the Report, which included the following:

We are reassured that there continues to be no evidence of an emerging CJD epidemic. The apparent rise in incidence of CJD cases in the UK appears to be mainly due to increased ascertainment. This is inevitable when intensive monitoring of a disease is undertaken. Other countries which monitor CJD have experienced similar increases, including countries with no history of BSE.

As with last year’s report, there is no strong evidence of changes in the geographical distribution of CJD and no conclusive evidence that particular occupations, such as farming, carry an increased risk of developing the disease . . .

2775 YB95/12.20/12.1. A copy of the minute was also sent to Mr Robb
2776 YB95/12.21/5.1. The minute was copied to Dr Metters, Dr Rubery, Mr Robb and Mr Clarke
2777 YB95/12.22/7.1
2778 YB95/12.22/16.1
2779 The Guardian at YB95/12.22/16.1 and the Daily Express, Independent and Daily Mail, all at YB95/12.23/3.1. For further discussion of this topic, see vol. 8: Variant CJD
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.2780

6.343 This was followed by a statement from the CMO:

In the light of the conclusions reached in the report and the Committee’s clear statement, the Chief Medical Officer, Dr Kenneth Calman said ‘I continue to be satisfied that there is currently no scientific evidence of a link between meat eating and development of CJD and that beef and other meats are safe to eat. However, in view of the long incubation period of CJD, it is important that the Unit continues its careful surveillance of CJD for some years to come.’2781

6.344 We expressed concern to Sir Kenneth Calman that he should have chosen to make a statement in these terms at this time. Since 20 April 1995, the end of the period covered by the CJDSU’s Fourth Report, events had occurred which were sufficient to cause concern about the possibility of transmission of BSE to humans.

6.345 Sir Kenneth was aware that slaughterhouse inspections had disclosed failures adequately to separate SBO from material for human consumption and that the results of a further round of visits were pending.2782 On 4 October SEAC held a special meeting to discuss the significance of a possible fourth case of CJD in a cattle farmer with BSE in his herd.2783 The Committee concluded that it was ‘difficult to explain this as simply a chance phenomenon’.2784

6.346 On 25 October, by which time there had been further reports of failures to remove SBO in slaughterhouses, Sir Kenneth met Mr Packer to express his concerns about BSE. These included the slaughterhouse shortcomings and the four cases of CJD in farmers with BSE in their herds. Mr Packer recorded:

However, overall he was not entirely happy with the situation and this would inevitably be reflected in his public utterances. While he would not depart drastically from what he had said previously and, in particular, would continue to maintain a strong presumption as to the safety of beef, he could not be as unequivocal as in the past.2785

6.347 We believe that Sir Kenneth had concerns at the time his press release of 5 October was drafted. These are apparent from the fact that the word ‘currently’ was inserted in the draft press notice at Sir Kenneth’s request.2786

6.348 Sir Kenneth emphasised to us that his press release was made in relation to the release of the CJDSU Fourth Report. However, the release went beyond commenting on the Report and expressed satisfaction that ‘beef and other meats are safe to eat’. It seems to us that, in the light of the matters known to him on 5 October, it would have been particularly desirable for Sir Kenneth to qualify his statement by making it plain that this was dependent upon the proper implementation by
slaughterhouses of the SBO Regulations. He should not have made the unequivocal statement that he did.

6.349 In his Annual Report for 1995, Sir Kenneth included a section on ‘Understanding the language of risk’. This included the following passage:

The problem for decision-makers is not when the evidence is clear, but when it is weak or incomplete . . . In such instances there is a need for openness and sharing of information, and the establishment of trust between those who make policy and the public at large. That will sometimes mean that the fact that there is reasonable doubt, or that there is no answer to the question, may need to be clearly stated.\[2787\]

6.350 We do not consider that Sir Kenneth’s press release of 5 October satisfied ‘the need for openness and sharing of information’.

6.351 We have pointed out that the public message given by Sir Kenneth’s press release was in contrast to the concerns that he was to express to Mr Packer later in the month. As we have noted above (see paragraphs 6.186–6.190), it is to his credit that those concerns were pursued with Mr Hogg and with MAFF officials and were instrumental in bringing the issue of MRM back for further consideration by SEAC.

Mr Dorrell’s statement of 3 December 1995

6.352 Mr Dorrell has expressed regret\[2788\] at agreeing to the proposition, put to him by Mr Jonathon Dimbleby in an interview on London Weekend Television on 3 December 1995, that:

You are saying no conceivable risk from what is now in the food chain.\[2789\]

6.353 We agree that it is a matter for regret that the Secretary of State for Health should have given an assurance in terms more extreme than he could justify.

The role of the MLC

6.354 When representatives of the MLC gave evidence in Phase 1, they explained how the emphasis of the activities of the Commission altered after 1985 from livestock improvement to marketing.\[2790\] They also made the point that there was no recognised channel for the provision of scientific knowledge to the MLC by MAFF or DH.\[2791\]

6.355 In 1989 and 1990 the MLC was active in a number of respects that were calculated to protect against the possibility of transmission of BSE to humans. On 25 May 1989, on the advice of Mr Maclean, the Chairman, Mr Geoffrey John, wrote to Mr MacGregor urging him to go beyond the Southwood recommendations and introduce an SBO ban that had general effect.\[2792\] In the same letter the Minister was
urged to raise the level of compensation in respect of the slaughter of clinically affected animals to 100 per cent.

6.356 In June 1990 the MLC supported action in relation to the risk of contamination created by the practice of head-splitting and brain removal in slaughterhouses.\textsuperscript{2793}

6.357 At the same time the MLC put in hand research work to develop a suction device that would remove the spinal cord of an animal before the carcass was split.

6.358 It was explained to us that these actions were taken not because it was believed that they addressed a risk to humans, but for reasons of presentation in order to reassure purchasers of beef. MLC officials believed that slaughter and destruction of clinically affected animals sufficed to deal with any risk posed by BSE to human health.\textsuperscript{2794}

6.359 So far as BSE was concerned, MLC saw its major role as one of protecting the market by reassuring customers that suggestions that risks attached to eating beef or beef products were without foundation. MLC officials believed that this fairly represented the position. When giving evidence in Phase 2 Mr Maclean and Mr Curry put the position as follows:

The primary concern of the MLC is actually to make sure that the meat eating habit continues in as large a scale as possible, and that means that it must protect its customers because the minute it loses the confidence of its customers, it has not done its job, and therefore its first priority is obviously human safety and human health.

... And its second priority is actually to try to ensure that the communication going to consumers is as reassuring as possible in order to maintain the viability of its industry.\textsuperscript{2795}

6.360 It seems to us that, by the time of the emergence of BSE, the MLC was seen as a body whose primary function was to promote the beef industry. Professor Richard Lacey commented on its role in 1991:

I knew they obtained advertising income from a levy on animals that were slaughtered to promote the consumption of meat. I also knew that they had some Government funding support, and I also knew that they were headed by senior veterinary officers. I viewed them as the promotional angle of the meat industry.\textsuperscript{2796}

6.361 More significantly, Mr Packer said that in January 1996 he sought to distance the Government from public statements by the MLC ‘because I feared the MLC would wish to make statements in their advocacy to which the Government could not subscribe’.\textsuperscript{2797} When asked to explain this, Mr Packer said:

\textsuperscript{2793} IBD7 p. 103
\textsuperscript{2794} T59 pp. 26–9
\textsuperscript{2795} T108 p. 29
\textsuperscript{2796} T5 pp. 52–3
\textsuperscript{2797} T83 p. 122
Well, the MLC is a body specifically to advocate and pursue the interests of
the meat industry. Now, the Government is also interested – has the interest
of the meat industry at heart, quite properly so. The Government has the
interest of all industries at heart. If industries succeed we all get richer, and
if they fail we all get poorer and that is an important point. But nevertheless
the MLC’s line is not the same as, and there is no reason why it should be
the same as that of the Government.2798

6.362 Mr Adam Rennie, the Grade 5 Head of the Meat Hygiene Branch in
DAFS,2799 observed that:

The job of the MLC in respect of BSE as I perceived it was to seek to do what
they could to promote beef consistent with the overall general message
which the Government was putting over and consistent obviously with the
regulations which were in place.2800

6.363 Its perceived role, and some of the over-extravagant comments made in
respect of the safety of eating beef to which we have already referred, appear by
1995 to have robbed statements by the MLC in relation to the safety of eating beef
of much of their credibility.2801

6.364 We expressed concern to the MLC that the Position Statement that was
produced in July 1995 (see paragraphs 6.256–6.259) was a further example of
exaggerating the absence of implications of BSE for human health. The statement
‘visibly infected cattle are totally destroyed’2802 did not recognise the possibility of
the occasional clinically affected animal ‘slipping through the net’. However, we
have concluded that, once ante-mortem inspection had been introduced in all
slaughterhouses, it must have been a very rare occurrence for an animal affected by
BSE to escape detection, and we would not criticise the MLC for failing to reflect
that possibility in its statement. Indeed, in this respect the MLC was doing no more
than following the precedent set by MAFF in its Progress Reports of December
19922803 and January 1994.2804

6.365 The statement that

all specified offals from all cattle are removed and destroyed before meat
enters the human food chain2805

was to prove inaccurate, when shortcomings in the removal of spinal cord came to
light later in 1995. The question arises of whether MLC officials had reasonable
grounds for believing that the statement was true.

6.366 Mr John Pratt, Head of Veterinary Services at MLC since 1984, told us in
Phase 1 of the hearings that ‘SBO removals were not always being carried out to the
letter of the law’2806 from mid-1994 through into 1995 – information known to
others in the industry. He explained that he was speaking of the operation of

2798 T83 pp. 122–3
2799 November 1988 to June 1991
2800 T77 pp. 120–1
2801 YB95/12.18/16.1
2802 YB95/7.00/4.1
2803 M28 tab 2A
2804 M28 tab 12
2805 YB95/7.00/4.1
2806 T99 p. 116
removing types of SBO, such as spinal cord, from the carcass. Mr Maclean was aware of these reports.

6.367 In a statement to the Inquiry, Mr Maclean informed us:

At around the time of the July 1995 position statement I believe I had asked MAFF (Mr Meldrum) whether SBO material was being prevented from entering the human food chain. Mr Meldrum had confirmed that it had. I would add that Mr Meldrum had just received a report from Mr Fleetwood that confirmed that ‘No instances of failure to separate SBO from material intended for direct human consumption has been reported . . . ’ (in national surveillance, 31 May–23 June 1995).

6.368 He added:

Having pressed for improved methods, participated in consultation over tighter controls, I received confirmation that no SBOs were getting into the human food chain, and because of the rest of the cascade of controls, MLC felt that it was perfectly legitimate to make that assurance in July 1995.

6.369 We do not believe that Mr Meldrum would have assured Mr Maclean that 100 per cent removal of SBO was being achieved, for he has told us that he did not believe this to be the case. Nor do we believe that Mr Maclean would have accepted that 100 per cent compliance with the SBO ban was being achieved. His oral evidence to us was to the contrary. We find that the July 1995 position statement had a degree of hyperbole.

6.370 Mr Maclean was not personally involved in the preparation of the position statement. We believe, however, that as Director-General of the MLC he had a duty to make sure that statements such as this were accurate. He should not have permitted the position statement to give an unqualified assurance that all specified types of offal from all cattle were removed and destroyed before meat entered the human food chain.

6.371 If the exaggeration in the 1995 position statement had been an isolated case, we would not have singled it out for criticism. It was not, however. It was one of a number of occasions when the MLC fell short of the objectivity that should have been shown by a statutory body with a duty to have regard to the interests of the consumer.

The advertising campaign in November and December 1995

6.372 This campaign included the statement:

British veterinary and abattoir regulations, along with their enforcement, are as strict as the strictest in the world. Altogether, eight separate controls are
in place embracing the farm, auction market and meat plant. With such
stringency, even the remotest perceived risk is avoided.2814

6.373 This was a further example of exaggeration.

6.374 In October and November there was a series of occasions on which SVS
slaughterhouse inspections disclosed failures to remove from the carcass all pieces
of spinal cord. This led to Mr Hogg’s statement of 22 November disclosing 17 such
instances, which he described as ‘potentially serious failings’ (see paragraph 6.193).

6.375 Over the previous years MLC officials had, on a number of occasions,
commendably, urged on MAFF and on industry the importance of compliance with
the SBO Regulations. They had done so because they had become aware of reports
that these were not being strictly complied with. On 1 November Mr Curry, the
Chairman of the MLC, wrote a strong letter to Mr Hogg expressing concern at
breaches in the integrity of the SBO system, in particular those leading to four cases
in which spinal cord had been found in carcasses that had been passed by meat
inspectors as fit for consumption. He wrote:

We detect an attitude in the industry which says ‘you have told us this
disease was not a threat to humans so why do we need all these controls?’
The danger that such an attitude engenders to our market, both at home and
overseas is very worrying indeed.

We therefore believe it necessary for MAFF to send a clear signal to the
whole industry that breaking the specified offal or ruminant protein bans will
be punished extremely severely by prosecuting one of the offending
abattoirs (or others not adhering to the rules).2815

6.376 In these circumstances we do not consider that it was appropriate to claim
that the stringency of abattoir regulations avoided even the remotest perceived risk.
It is true that Mr Hogg went on, in his statement of 22 November, to describe steps
taken to tighten up on enforcement of the SBO Regulation, but it must have been
plain that these could not take effect overnight. Despite the array of controls, it was
impossible to deny the risk that spinal cord from an infected animal might enter the
human food chain. Mr Maclean should not have permitted the MLC advertisements
to claim that with the stringency of controls even the remotest perceived risk was
avoided.

6.377 Thus again we hold Mr Maclean responsible for this inappropriate
exaggeration. Mr Curry has told us that, as Executive Chairman, he also must accept
responsibility, albeit that he cannot now recollect whether he was aware of the terms
of the advertisement. We would not hold Mr Curry personally at fault in those
circumstances. He could, we consider, properly rely upon Mr Maclean to ensure
that the terms of the advertising campaign were appropriate.

6.378 We have noted in the narrative of this section that a misquotation of the CMO
in the advertisement led DH to allege that the MLC had embellished the CMO’s
words with the MLC’s own spin, and that the Advertising Standards Authority
upheld other complaints about the MLC’s advertisements.
The repeated hyperbole in the MLC promotional material must, we believe, have led the public to regard it with the scepticism that advertising of this kind tends naturally to generate. The result was that the MLC found that it had lost credibility. It was this that led the MLC to seek to involve in its promotional campaign independent scientists, and in particular members of SEAC and the CIDSU.

It was understandable that the MLC, or indeed MAFF, should seek to quote the advice or opinions of independent scientists in relation to the risks posed by BSE or, indeed, the risks posed by beef and beef products. At the same time we consider that it was not appropriate that these scientists should make statements for the purpose of providing advertising copy, let alone contribute to advertisements by writing or by televised interview. This applies with particular force to the CMO. It is important that the public should be able to trust advice given by the CMO. To this end he or she must be, and be seen to be, independent of commercial interests and of commercial objectives, whether of Government or the private sector. To a lesser extent the same is true of independent expert advisers.

With these considerations in mind, we would commend Mr Packer for his appreciation of the danger that the MLC might make use of Professor Pattison’s video interview in a manner which might appear prejudicial to his independent standing, and for the prompt action that he took to ensure that this did not occur (see paragraphs 6.329–6.330).

Mr Meldrum correctly recognised that MAFF had objectives that were complementary, but not identical, to those of the MLC and that there was a need both to protect the perceived independence of SEAC and for MAFF to distance itself from the MLC – to be seen to be disinterested (see paragraph 6.344). Mr Maclean had shown insensitivity in the use he sought to make of members of SEAC; a further instance of which we shall consider in the next chapter.

We have received quite voluminous evidence from Dr Will and Mr Maclean that bears on the issue of whether Dr Will had expressed concern at the terms of the advertisement that was to include a quotation from an article that he had written. Were we to attempt to resolve this issue we would need to explore this evidence with the witnesses in a further oral hearing. We do not consider that the issue is sufficiently important to justify such a course, and must leave it unresolved.
Annex 1 to Chapter 6: Spinal cord in bovine carcasses

The information below was included in a minute from Mr Wyllie to Dr Cawthorne, copied to the CVO, Mr K Taylor, Mr Baker, Dr Matthews, Mr Gardner, Mr Williams, Mr Eddy, Mr P Soul and Mr Render on 1 March 1996 (reference YB 96/3.1/1.1).

It showed the latest update of the list of occurrences by VO of spinal cord being detected in bovine carcasses by SVS staff as of 1 March 1996.

<table>
<thead>
<tr>
<th>VO</th>
<th>Date</th>
<th>Details</th>
<th>Health marked</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carmarthen</td>
<td>18–Jul–95</td>
<td>1 carcase, fragment</td>
<td>NK</td>
</tr>
<tr>
<td>Leicester</td>
<td>28–Sep–95</td>
<td>Occasional, 6–9 inch lengths</td>
<td>Yes</td>
</tr>
<tr>
<td>Crewe</td>
<td>29–Sep–95</td>
<td>2 carcases, 5–6 inch lengths</td>
<td>Yes</td>
</tr>
<tr>
<td>Northampton</td>
<td>11–Sep–95</td>
<td>Several carcases, 2 inch lengths</td>
<td>Yes</td>
</tr>
<tr>
<td>Barnstaple</td>
<td>24–Sep–95</td>
<td>5cm spinal cord in one carcase</td>
<td>NK</td>
</tr>
<tr>
<td>Leamington</td>
<td>17–Oct–95</td>
<td>1 small piece</td>
<td>Deferred check</td>
</tr>
<tr>
<td>Leamington</td>
<td>16–Oct–95</td>
<td>Several pieces, in several carcases</td>
<td>Deferred check</td>
</tr>
<tr>
<td>Kirkwall</td>
<td>18–Oct–95</td>
<td>1 casualty carcase, one third of spinal cord</td>
<td>NK</td>
</tr>
<tr>
<td>Inverurie</td>
<td>27–Oct–95</td>
<td>5 out 100 carcases inspected. 10–15cm lengths</td>
<td>Yes</td>
</tr>
<tr>
<td>Lincoln</td>
<td>25–Oct–95</td>
<td>Four carcases, 3 inch lengths, 10 inspected</td>
<td>No, deferred check</td>
</tr>
<tr>
<td>Inverness</td>
<td>23–Oct–95</td>
<td>1 carcase, deficient splitting the cause</td>
<td>Deferred check</td>
</tr>
<tr>
<td>Leeds</td>
<td>07–Nov–95</td>
<td>2 carcases</td>
<td>Deferred check</td>
</tr>
<tr>
<td>Carmarthen</td>
<td>10–Nov–95</td>
<td>1 carcase, 11cm length</td>
<td>Yes</td>
</tr>
<tr>
<td>Carmarthen</td>
<td>02–Nov–95</td>
<td>1 carcase, 3cm length</td>
<td>Yes</td>
</tr>
<tr>
<td>Lincoln</td>
<td>07–Nov–95</td>
<td>1 carcase out of 6, 6–8 inch length</td>
<td>No, deferred check</td>
</tr>
<tr>
<td>Leicester</td>
<td>09–Nov–95</td>
<td>1 carcase, private kill, 9 inch length</td>
<td>Yes</td>
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<tr>
<td>Guildford</td>
<td>20–Nov–95</td>
<td>1 carcase, 5 inch length</td>
<td>Yes</td>
</tr>
<tr>
<td>Stafford</td>
<td>29–Nov–95</td>
<td>1 carcase, 3.5 inch length, out of 50 inspected</td>
<td>Yes</td>
</tr>
<tr>
<td>Taunton</td>
<td>30–Nov–95</td>
<td>3 carcases out of 30, 2–3 inch lengths</td>
<td>No – before presentation for inspection</td>
</tr>
<tr>
<td>Stafford</td>
<td>04–Dec–95</td>
<td>2 carcases, 3 inch and 1.5 inch</td>
<td>No – before presentation for inspection</td>
</tr>
<tr>
<td>Lincoln</td>
<td>14–Dec–95</td>
<td>1 carcase, tiny fragment 2mm thick (meat inspector may not have been able to see this when carcase was wet)</td>
<td>Yes</td>
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<tr>
<td>VO</td>
<td>Date</td>
<td>Details</td>
<td>Health marked</td>
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<tr>
<td>Dorchester</td>
<td>19–Jan–96</td>
<td>1 carcase, whole spinal cord</td>
<td>Yes</td>
</tr>
<tr>
<td>Nottingham</td>
<td>30–Jan–96</td>
<td>1 carcase, 2 inch length</td>
<td>Yes</td>
</tr>
<tr>
<td>Winchester</td>
<td>29–Feb–96</td>
<td>1 carcase, 2 cm length</td>
<td>Yes</td>
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