Part 4: Collective Government
17. Collective government

Introduction

17.1 Almost all the action on BSE in Wales, Scotland and Northern Ireland was by common consent led from Whitehall, and the approach discussed in volumes 3–8 and 10–11 applied to the whole of the UK *pari passu*. As the *Wildy Report* remarked in 1987:

> Animal disease is no more a respecter of administrative, national or political convenience than is human disease.\(^{747}\)

In respect of BSE, a Scottish witness told us:

> . . . there was not any indication that Scottish cattle were somehow different from cattle in England and Wales.\(^{748}\)

A Northern Ireland witness put it even more trenchantly:

> . . . the United Kingdom is a very small place and it would be absolutely dotty if you had a ban such as this [the ban on SBO in human food] in some parts of the kingdom and not in the others.\(^{749}\)

We entirely agree with those judgements.

17.2 However, the Whitehall lead did not remove from the Territorial Departments their statutory responsibilities for animal and human health. As we have seen in the earlier chapters in this volume, their response was shaped not only by the way that BSE affected their farming and other interests, but by their individual legislative and administrative arrangements. Moreover, their own communities looked to them rather than to Whitehall for information and advice on how to respond.

17.3 The general division of labour adopted was that MAFF and DH would:

i. collect and interpret information about the disease, set in hand epidemiological work and research, and obtain the best possible expert advice;

ii. develop strategies and legislation to tackle the disease in animals;

iii. assess the risk to humans and develop policies and legislation to minimise it; and

iv. explain and defend all these matters at national level.

17.4 The Territorial Departments remained responsible for:

\(^{747}\) Report of a Working Party to review public sector funded research and development in farm animal diseases (the *Wildy Report*), July 1987 (M11A tab 4, p. 32 para. 3.11.3)

\(^{748}\) T77 p. 98 (Rennie)

\(^{749}\) TR6 p. 128 (Skelmersdale)
i. briefing and advising MAFF and DH from their particular perspective – for example, giving advice on legislative, administrative and other differences to which national measures needed to have regard;

ii. advising their own Ministers, in particular where these had joint or sole responsibility for legislation and action; and

iii. implementing agreed action and defending it in the local context.

17.5 This division of responsibility required good working relationships and communication between all concerned. We were interested to explore how well the established processes of collective government, described in vol. 15: Government and Public Administration, worked to secure this. Those involved were located long distances apart across the UK with differing concerns and differing ministerial reporting lines. In this chapter we consider what light the handling of the BSE story described in the earlier chapters throws on how well the public administration processes coped with geographically spread responsibilities. We look in particular at four aspects:

i. how policy decisions were taken and implemented where legislative powers were devolved or shared;

ii. the working relationships between Whitehall and the Territorial Departments on BSE;

iii. communication within the Territorial Departments on BSE; and

iv. how expert advice was sought and used.

17.6 We go on to draw some general conclusions from this. Finally, we give an overview and summary of our main findings.

Policy decisions and legislative action

17.7 A fundamental difficulty for the Territorial Departments in contributing to national policy-making on BSE was their limited professional and policy resources. They could and did offer information about the local situation – for example, the implications for the haggis trade of a ban on bovine intestines – but they lacked a cadre of experts to provide independent analysis of the complex issues that BSE raised. They were obliged to rely on the judgement of colleagues in Whitehall.

17.8 This general problem arose particularly sharply whenever secondary legislation had to be brought forward or co-signed. Approving legislation put a direct responsibility on their Ministers to form judgements about its content, and then to take responsibility for it.

17.9 In the case of the ruminant feed ban, the Northern Ireland administration did indeed form its own separate views, after consultation and analysis of alternative policy options related to local animal health circumstances. But this was the exception rather than the rule. Mr Davison of the Department of Agriculture and Fisheries for Scotland (DAFS), for example, described to us how things were normally done in Scotland:
The prime duty of the division was to transmit MAFF advice to Scottish Office Ministers, informing Ministers of relevant developments and advising them on lines to take publicly on current issues, with commentary on its application to Scottish circumstances if there were any specifically Scottish aspects of the matter.\textsuperscript{750}

\textbf{17.10} This description tallied with many examples we saw of MAFF or DH ministerial submissions about BSE being put up in parallel to Territorial Ministers with a suitable covering minute. We do not criticise this practice, which had the merit of economy of effort and consistency of advice. In the case of BSE it reflected the fact that most of the available knowledge lay in Whitehall. Nevertheless, it meant that although separately responsible, those Ministers and their officials were relying on the analysis provided for their counterparts in London rather than on independent advice in giving their approval to legislation. This issue is by no means restricted to BSE alone, and is beyond our remit to explore. We simply note that, so far as BSE was concerned, the exercise of the separate legislative powers was mainly rubber-stamping.

\textbf{Working relationships between Whitehall and the Territorial Departments on BSE}

\textbf{17.11} The need to rely on information and analysis provided by others lent weight to the importance of good working relationships and communication with London both at the policy formation stage and when action was being monitored. These were the points at which any special concerns could be explored and taken on board. There also needed to be shared understanding of the reasoning that led to particular advice or conclusions. This could then inform general perceptions and any subsequent action, including enforcement.

\textbf{17.12} We considered how well the interdepartmental relationships worked in practice in dealing with BSE. Volume 15: \textit{Government and Public Administration} describes the established conventions governing the way Ministers and officials worked together and across departmental boundaries on public business and were held accountable for what they did. The question was how that worked when responsibilities relating to BSE involved not only different Whitehall Departments but also geographically separate Departments with some independent responsibilities.

\textbf{17.13} It was a routine part of public administration that a Department and ultimately its Ministers needed to obtain collective agreement to significant new policies or changes in policy. The fact that they were important members of the Cabinet gave the three territorial Secretaries of State considerable clout in applying their geographical perspective to discussions about BSE. Sir Michael Forsyth described his aim to us as seeking to be ‘Scotland’s man in the Cabinet not the Cabinet’s man in Scotland’.\textsuperscript{751}

\textbf{17.14} But ministerial decision-making had to be underpinned by effective networking and negotiations by their officials. The groupings of departmental

\textsuperscript{750} S263 Davison para. 4

\textsuperscript{751} T91 p. 144
responsibilities in Cardiff, Edinburgh and Belfast broadly corresponded to those in Whitehall. However, in most cases each of their officials covered a far wider range of topics than their London counterparts, with greater delegation of responsibility and inevitably less time to devote to individual aspects. They needed to maintain a broad spectrum of Whitehall contacts in order to keep up with what was developing and decide what they might want to contribute. Parallel networks of professional staff helped to keep information flowing, but all policy discussion was conducted through administrative divisions.

17.15 In practice the Territorial Departments relied heavily on being consulted about matters that concerned them. Good communication was essential.

The timing of communication from Whitehall

17.16 However, all too often consultation was a hurried last minute affair. That added to the pressure to take the Whitehall line as read.

17.17 The timing of the communication would be a matter of judgement based on what the territorial role was agreed or perceived to be. Where their Ministers or they themselves were co-signatories to legislation or administrative arrangements, Territorial Departments would generally – though there were some notable exceptions in the BSE story – be brought into discussions early on. They could then contribute to the joint policy or ensure that any local or regional aspects were taken into account. If Whitehall officials wanted support for their own Minister in collective discussions, that was an incentive for them to make sure that the officials in Territorial Departments who would be advising their Ministers were fully in the picture.

17.18 In some cases there were regular meetings to share information and pick up on concerns, such as the quarterly meetings between the four Chief Medical Officers. Or meetings might be arranged for a specific purpose and to take decisions, such as that held to agree what should be included in the SBO ban. If the relationship was a continuing and harmonious one, there might be ‘copying in’ on internal minutes and submissions, not otherwise intended for circulation outside the Department. There would certainly be frequent telephone conversations.

17.19 It was plain from the evidence we examined that early consultation with the Territorial Departments was far from being the first consideration in some Whitehall policy-makers’ minds. In some cases this might be an oversight. Sir Michael Forsyth told us that ‘forgetting about the Scots’ was ‘thoughtlessness . . . it was not malicious’. Nonetheless he added that:

I felt every bit of paper, every Minister in Whitehall should have on their desk: ‘Do not forget Scotland, Northern Ireland and Wales.’

17.20 We had many examples of late communication, some through oversight, some driven by force of events and some as a deliberate policy. When BSE was first causing Ministers concern at MAFF, Scottish administrators did not learn of this till some months later. In 1989 a last-minute decision on sausage casings and the suddenly accelerated introduction of the SBO Regulations for England and Wales
left Scotland and Northern Ireland on the back foot. In the case of the 1990 draft animal SBO Order, MAFF Ministers instructed that consultation with the co-signatories and Northern Ireland should be left to the last possible moment to avoid leaks.\footnote{YB90/9.17/3.1; YB90/9.19/7.1} Mr Hogg offered us in oral evidence a jaundiced view of the value of open communication with the Scottish Office:

> The Scottish Office is one of the leakiest departments I have come across.\footnote{T137 p. 40; see also pp. 42–3}

\section*{17.21} Announcements and legislation at short notice, without prior discussion and thinking time, posed particular problems. A Northern Ireland Minister told us that howlers were consequently sometimes committed, such as failing to allow for the different local government responsibilities in the Province.\footnote{T91 p. 155 (Denton)} There might be little time for feedback. The NI CVO expressed his frustration at the lack of time to frame considered comments. A Scottish Minister described how sometimes a fax would arrive from MAFF seeking clearance for an imminent announcement but:

> We were very often halfway up a farm track 500 miles from London and a long way from our own officials and offices.\footnote{T91 p. 154 (Lindsay)}

\section*{17.22} All these were matters that added to stress – a point on which both Northern Ireland and Scottish Ministers commented – and sometimes created ill feeling.

\section*{The nature of communication from Whitehall}

\section*{17.23} As important as the timing of consultation and discussion was its content. When an important announcement with which they had not been closely involved was in the offing, the Territorial Departments needed to understand the rationale and have advance briefing on the proposed ‘line to take’ so that they could formulate their own response to queries appropriately. For this they had to rely on briefings or documents prepared by central Whitehall Departments. The full scientific and other considerations that were being weighed, including the pointers emerging from research findings, were not available to them. In particular, if their main source of information was ‘Question and Answer’ briefs or other ‘sound bite’ material produced for public consumption and designed to put the most optimistic face on things, they might be unaware of the arguments that had been advanced and discussed between officials and Ministers.

\section*{17.24} From time to time, officials in Territorial Departments made attempts to improve their understanding of the issues. The Welsh Office asked for observer status at SEAC meetings and access to their papers. As Chapter 5 relates, they did not get observer status. Dr Tyrrell, then Chairman of SEAC, preferred to keep the Committee small and to avoid having non-participants present. The Scottish Office had a little more success in getting SEAC papers but then made little use of them.

\section*{17.25} It was undoubtedly the case that the Territorial Departments did not have access to all the relevant information about BSE. We make no blanket criticism of this. It would not be sensible or appropriate for others to try to duplicate the work of MAFF and DH. Nor did we identify any occasion on which, in the event, lack of

\begin{thebibliography}{119}
\footnotetext[733]{YB90/9.17/3.1; YB90/9.19/7.1}
\footnotetext[734]{T137 p. 40; see also pp. 42–3}
\footnotetext[735]{T91 p. 155 (Denton)}
\footnotetext[736]{T91 p. 154 (Lindsay)}
\end{thebibliography}
access to information was the cause of a major failure in relation to BSE. On the other hand, we wonder whether sharing more information with Territorial Departments might have led to the significance of some issues, about which they were already concerned, being recognised earlier, such as the risks of MRM and the need to avoid cross-contamination in feedmills.

17.26 For their part the Territorial Departments had to decide what role they wanted to play when they were consulted or informed, or when they believed they had something to volunteer. Since each division and each official covered a wide range of policies, they could not concern themselves with all policies in equal depth. Because MAFF and DH were in the lead and had much greater professional and research capacity, it was perfectly reasonable for the Territorial Departments to leave it to them in many cases. But where they did want to make a contribution, they needed to have adequate information. Sometimes that meant the information on which Whitehall was resting its conclusions. We return below to this question of access to expert advice.

**Communication within Territorial Departments on BSE**

17.27 As we have noted, information and early warnings from Whitehall could reach Territorial Departments in various ways, though it remained a serious limitation that travel time to and from London made face-to-face contacts difficult. Baroness Denton (in Northern Ireland) envied the Scottish Office arrangement of having a member of the Department regularly in London charged with acting as a liaison officer.\(^757\)

17.28 Once information was provided, it needed to be analysed and shared. In theory, small Departments could share information easily among themselves. In practice, this did not always work well. The Scottish Office health and agriculture divisions handling BSE were in widely separated buildings. Agriculture Departments throughout the UK all failed to alert human health colleagues as soon as the serious nature of BSE began to emerge. Within Agriculture Departments, veterinarians and administrators did not always share information among themselves or with health colleagues.

17.29 In part this mirrored the separate handling of animal and human health issues in Whitehall and the associated communication shortcomings. The institutional arrangements which fostered this separation, both administrative and professional, were to some extent replicated in the Territorial Departments.
17.30 A second possible explanation is that in small Departments spanning a wide range of topics, the small cadre of staff may be unenthusiastic about taking on what they see as the responsibilities of others. Raising a cross-boundary issue may irritate and lead to a ‘keep off my patch’ response, as Dr Metters explained to us in the case of DH.\footnote{T114 p. 26} It is almost certain to require perseverance and time, particularly if there then has to be interaction through separate Whitehall networks in order to carry matters forward, as we saw in Chapter 5.

17.31 We believe this problem can be addressed only by a shift of perception about how closely animal and human health matters are linked – by shared principles of epidemiology, shared pathology, and the multiple hidden routes through which human and animal tissues come into contact with one another. We discuss this wider issue in the concluding chapter of vol. 2: \textit{Science}.

17.32 However, when officials took advantage of their proximity to one another and their small numbers, some interesting examples of good practice showed how fruitful collaboration could be.

17.33 We were particularly struck by the multidisciplinary approach of the Welsh Office Health Professionals Group and its integration of both epidemiological and environmental health advice. The Group’s combined analysis bridged the gaps that existed nationally between those knowledgeable on epidemiological techniques, human health issues and the actual processes involved in slaughtering and butchery. Using its collective knowledge the Group identified some of the potential pathways of infection, points at which specific hazards needed to be addressed and enforcement monitored, and wider issues on which research and investigation were needed. It was in a position to make judgements about the application of the precautionary principle. The effectiveness of this arrangement was undoubtedly strengthened by the close association between the Welsh Office and the Public Health Laboratory Service (PHLS).

17.34 We believe this arrangement might usefully be considered elsewhere.

17.35 We noted the role played by the Chief Scientific Officer in Northern Ireland as a team member generally and as an experienced analyst and adviser on food safety issues. This seemed to us to offer a model for consideration where policy development and assessment of risk are concerned.

17.36 We were also struck by the close working relationship in later years between the Assistant Chief Veterinary Officer in Scotland and the Chief Medical Officer for Scotland. Unlike the CVO in Northern Ireland, the Scottish ACVO was not an independent appointment, but part of the MAFF team. Nonetheless, as such he provided the CMO with a hotline to the latest veterinary thinking in Whitehall and how it was being interpreted. We believe a similarly close working relationship throughout between the CMO in DH and the CVO in MAFF might have benefited both.
Access to expert advice

17.37 One of the most significant shortcomings in the way Whitehall dealt with the Territorial Departments was the failure to make accessible to them the thinking of SEAC and its interpretation of the various research findings that emerged from the programme established by MAFF and DH. We have noted above the reliance the Territorial Departments had to place on the judgements of Whitehall. These in turn drew on the expert committees which it had established. In handling so baffling an animal disease and its human implications, it made good sense for all concerned to draw on the same small store of expertise, rather than to seek to replicate it.

17.38 Wales, Scotland and Northern Ireland each raised this issue at different times. In particular the CMOs sought observer status on SEAC and access to its papers. In the former they failed. As noted above, Dr Tyrrell wished to keep the Committee small, with as few non-participants as possible. On the other hand, there appears to have been muddle over circulation of SEAC papers and minutes. When Dr Metters wrote to Dr Calman, then Scottish CMO, to tell him that the Territorial Health Departments were not to get observer status at SEAC, he went on to say:

We will, however, ensure that David Tyrrell’s point about improving communications between the Committee and interested Departments is fully activated . . . I have asked Dr Pickles to ensure that you (or your nominee) receive all the relevant papers.759

He copied this letter to the Welsh and Northern Ireland CMOs.

17.39 But whatever was done, it did not appear to have had the desired effect. Mr Davison, Assistant Secretary in DAFS from January 1990 to May 1994, told us that he did not see SEAC papers at all,760 and his successor, Mr Matheson, who did get all the papers and minutes, said:

The papers as I recall were both bulky and very technical . . . I did little more than scan them and send them to be filed so that they were available for reference.761

Dr Jacobs at the Welsh Office and Professor Palmer at the PHLS (Wales) did not think they saw SEAC papers.762 Dr McKenna in Northern Ireland did not think they got the minutes regularly.763

17.40 We believe that it was important for the Territorial Departments to have access to SEAC papers, but they needed to avoid being deluged with documents. One option would have been to circulate agendas and minutes and enable the territorial officials to call for papers that interested them. However, a perennial problem with this kind of arrangement is that it is not always obvious from a title on an agenda what the real subject matter or purpose of a paper is; indeed it may only become apparent during discussion at the meeting what really concerns the expert advisers. Even if all the papers had been circulated, the Territorial

759 YB90/11.8/5.1
760 T77 pp. 35–6
761 T77 pp. 37–8
762 TB2 p. 103
763 T78 p. 129
Departments might have found it difficult, as Mr Matheson implied, to work out what was of significance for them. Despite these difficulties, more effective arrangements need to be in place that achieve the right balance between deluge and drought.

17.41 As we note above, one of the benefits of greater sharing of information might have been that MAFF and DH would have been alerted to some of the very real concerns being felt by some of those working in the Territorial Departments. It seems to us that that in turn might have affected the urgency with which some matters – such as the importance of compliance with the SBO ban or the hazards inherent in methods of head-splitting and brain removal – were addressed and, if necessary, passed back to the experts for consideration. Arrangements which ensure feedback from the Territorial Departments to the officials assessing the risk and advising Ministers centrally, at the appropriate point in the policy-making cycle, would be valuable.

**General conclusions**

17.42 Animal and human diseases are indeed no respecters of administrative boundaries, and the response to them needs to be prompt, well-informed and coherent. When we considered all the above issues it seemed to us that they demonstrated some weaknesses in the systems for joint policy-making between London, Cardiff, Edinburgh and Belfast. They also seemed to us to suggest some ways of carrying matters forward.

17.43 Basic information and analysis need to be shared. Responsibility for disseminating them needs to be clear. Close working between those concerned with animal and human health is highly desirable, and the combined expertise of both senior medical and veterinary staff needs to be drawn on in team-building and decision-making. At the same time delays from extended separate consultations have to be avoided. We recognise that the administrative and legislative arrangements covered in this volume have now changed in some significant respects, in particular on animal health and food safety matters, as a consequence of devolution and other events. We would hope that the continuing development of the new relationships and the protocols governing them can take on board the lessons of BSE.

17.44 In particular we see merit so far as animal diseases and potential zoonoses are concerned in establishing a clear understanding about:

i. the identification of those areas where a uniform and synchronised policy and/or implementation is required and who is to take the lead;

ii. the sharing of resources and information; and

iii. a structure for consultation and joint decision-making that minimises unnecessary delay.

17.45 We agree with Dr Kendell’s observation to us about how communication between all concerned had hitherto been working:
What is wrong at present is the ambiguities about the present situation; . . .
the territorial Departments are a bit of a nuisance . . . they regard themselves
as more or less autonomous but are not always so regarded by the big
Whitehall Departments.\footnote{764}

He thought:

. . . it will be easier in a devolved situation, because everything will be
more explicit.\footnote{765}

17.46 The sharing of resources and information would assist with the problem we
have noted above in the BSE story, that the statutory responsibilities of the
Territorial Departments were not well aligned with the resources at their disposal.
If there is to be real consensus and not ‘follow my leader’, information must be more
freely available so as to enable the devolved administrations to exercise their
responsibilities adequately. We do not suggest that research should be duplicated
but rather that the information held by Whitehall should be more routinely and
thoroughly disseminated. We note that, since the review of its operation in 1997,
SEAC has reported also to Ministers in Wales, Scotland and Northern Ireland. That
is certainly to be welcomed.

17.47 Consistent policy decisions were taken and implemented in relation to BSE
largely because the Whitehall CMO and CVO were regarded as having the final
word. That final word needed to draw – and indeed did draw – on regular
discussions with their colleagues. We believe the quarterly meetings of the CMOs
had an especially valuable function as a forum for working through issues of public
policy. Ways might be sought of fostering the use of that arrangement in order to
assist the provision of consistent, collective advice throughout the UK on animal
and human health, recognising that the CMOs may sometimes agree to disagree.
Such a forum could also act as a platform for offering collective professional advice
direct to other Whitehall Departments.

17.48 The proper exercise of their responsibilities is also likely to mean that
territorial administrations will need to consider how best to analyse and disseminate
the information they receive so that it does not languish in pending trays.

17.49 On a more general point, we believe the BSE story has demonstrated
the importance of more open sharing of information and research on all topics.
This would not only help to meet public concerns but directly facilitate good
policy-making.

Overview and summary of main findings

17.50 BSE was a UK-wide threat needing a UK-wide response. That was speedily
and sensibly agreed by all concerned once it was apparent that BSE existed
throughout the Kingdom. By common consent, MAFF and DH took the lead role.
In order to simplify our exposition of a highly complex and extended series of
events, we have mainly concentrated in the other volumes of our Report on the total
process adopted for investigating the disease and for devising responses to it. The measures described there are those that were brought in for the UK as a whole, or for England as a component of a wider collection of provisions.

17.51 However, we have been equally interested in how they were agreed, adapted and applied within each of the overlapping and sometimes distinct legislative and administrative systems in Wales, Scotland and Northern Ireland. Ministers and officials there likewise had responsibilities to protect both animal and human health, while having regard to the economic consequences of the measures being introduced. They were key players both at the decision-taking stage, and thereafter in making and monitoring action.

17.52 We looked in this volume at what they did and in particular where that differed from elsewhere in the UK. In the summary of our findings that follows, we sometimes use the collective term they frequently employed themselves to describe their shared geographical as opposed to functional status – ‘Territorial Departments’.

Findings

17.53 We found no fundamental differences in the nature of the response to BSE throughout the UK. Like their colleagues in Whitehall, Ministers and officials in the Territorial Departments worked closely together. Decisions were taken on the basis of submissions and discussions. Where there were minor or temporary variations from the general UK line in their actions, these did not in our view bear on the course of the disease nor expose animals and humans to a significantly greater or lesser degree of risk.

17.54 It was plain from all the evidence that the Territorial Departments were strongly influenced at first by the MAFF perception of BSE as purely an animal disease. They then found this perception confirmed by the Southwood Report. The risk to humans was remote. The Report gave ‘quite a comforting message’. It is difficult not to infer that this perception, coupled with the Government’s drive towards ‘lifting the burden’ of regulation from industry must, as elsewhere, have tempered enforcement zeal.

17.55 Nonetheless, officials pressed ahead diligently with the agreed precautions.

17.56 Inevitably with a canvas covering ten years, and a vast complex of administrative actions, there were things that could with advantage have been done a little differently and perhaps a little better. However, we were not looking for perfection. We were interested in the light thrown by some of the failings we noted on the way collective government works between Departments with different geographical responsibilities, rather than different functional responsibilities. We were also interested in the way public expectations of statements of reassurance by Chief Medical Officers and the Chief Veterinary Officer or other ‘independent experts’ were handled. All these are matters from which useful lessons can be learned.

17.57 We note first some features of what happened in Wales, Scotland and Northern Ireland, and then set out some more general findings.
Wales

17.58 Welsh legislation and administrative arrangements closely resembled those of England. This simplified the task of coordinating action. We were struck by the quality of independent thinking that the Welsh Office medical team led by the CMO, Dr Deirdre Hine, applied to the issues raised by BSE. The team’s attitude reflected its effective combination of medical and epidemiological skills with first-hand knowledge of the realities of slaughterhouse operation. A similar working combination of skills at national level in Whitehall Departments could well have been fruitful.

17.59 There were no special features of the Welsh situation that dictated a different approach. However, the Welsh Office team had valuable insights to offer for national policy development and did their best to register them. Dr Hine wished to get closer to the thinking of SEAC. We applaud the alternative strategy she adopted towards its chairman, Dr Tyrrell, of successfully inviting him to Cardiff. Her interest in exploring the issues was natural in the context of her responsibilities to the people of Wales. It seemed to us that the various information blockages could have been overcome – as indeed some now have been – had there been a genuine wish at the London end for joint working. That, however, was far from the case.

Scotland

17.60 Here there was not the same happy combination of skills and knowledge in place to bring together the animal and human health implications of BSE. Matters were very much left in the hands of the Agriculture Department. In 1990 Dr Forbes, a respected former colleague, expressed concerns about the risk that BSE posed to humans, which appear initially to have sounded a cautionary note with the CMO, Dr Calman, and with Mr Hart, who headed the Health Department. Dr Kendell on the other hand, who took over as CMO in 1991, did not seek Dr Forbes’s views, regarding the Environmental Health (Scotland) Unit which Dr Forbes headed as a ‘one man band’. He looked mainly to Mr Scudamore, the Scottish Veterinary Adviser, for advice about BSE. Mr Scudamore seems to have fulfilled his role admirably, both towards the CMO and in working closely with the Animal Health branch in DAFS. However, as he told us, he had expected that his contributions from the veterinary and general MAFF perspective would have formed no more than one element in the Scottish Office assessment. We agree. But no such wider assessment was made.

17.61 We thought that this could be attributed to weak links and lack of shared perceptions in the Scottish Office between those responsible for animal and human health. Dr Kendell told us that he assumed it was his job to keep careful tabs on the human disease and it was the Agriculture Department’s job to ensure that everything was right and proper on farms and in abattoirs. We saw little sign of joint working on BSE between the administrators in the two Department’s. One manifestation of this was the pigeonholing in DAFS of the hard-won supply of SEAC papers by DAFS administrators as scientific, technical and ‘all Greek’. These were never discussed and assessed jointly, or indeed at all, nor brought to the attention of the CMO, who thought they would have been ‘enormously helpful’.
17.62 It seems to us that those dealing with animal and human health could profitably have shared knowledge about and discussed slaughterhouse practices, the food chain implications if enforcement of Regulations was inadequate, and any impact that this could have on handling BSE. We also think that it was desirable that a working competence in understanding the papers of a key advisory committee such as SEAC should have been available.

17.63 Happily the poor liaison did not create delays in the action taken by DAFS to introduce Scottish legislation and apply the various precautionary measures agreed on BSE. We have no criticisms of this. The Select Committee on Agriculture had, in 1990, censured the delay in introducing the Scottish human SBO ban to mirror the England and Wales Regulations of November 1989. However, given the last-minute addition of sausage casings and the troubles that immediately arose over the lawfulness and adequacy of the 1989 SBO Regulations, we thought it not unreasonable that those producing the Scottish equivalent should take the time necessary to avoid these pitfalls.

17.64 That said, the border between Scotland and England is meaningless so far as the movement of people, animals and goods is concerned. Health threats need a common approach. As a general principle, it seems to us highly desirable that when animal and human health safeguards are urgently needed, there should be available powers to bring those into effect simultaneously across Britain.

Northern Ireland

17.65 Here there was indeed a significant physical border. Besides differing in terms of its legislation and administrative arrangements, Northern Ireland was separated from Great Britain by a wide sea crossing. It was reasonable that Ministers and officials there should have given careful thought to whether to follow the policy lead from London on notification and a ruminant feed ban. They decided not to do so at first.

17.66 We did not think the delay in formalising notification made any difference. However, we were concerned about the decision not to take immediate action on a feed ban. Recycled infective material might already have been in local MBM, and cattle eating it might already have become infected, thus prolonging any epidemic in Northern Ireland. We noted that the decision to delay the ban was taken only after outside consultation and analysis of various options. It was put to us that it was justified by the absence of BSE outside Great Britain and by the beliefs held at the time about the cause and distributing mechanism of the disease. Moreover, import controls were put in place for MBM and live cattle. We concluded the decision was not unreasonable at the time, though with hindsight, it would have been preferable not to delay. However, immediate precautionary introduction of a ruminant feed ban would probably have reduced the cases of BSE in the Province by only a small number.

17.67 After the first case in Northern Ireland was confirmed in November 1988, the NI administration closely followed the UK line on all matters, despite a hankering for independent health status for its cattle, with a view to restoring beef exports. We think they were right to keep in step with the rest of the UK.
17.68 We heard differing accounts of the usefulness of the NI cattle-tracking system in alleviating the effects of the BSE crisis in the Province. It does not appear to have been a significant factor during the period with which we are concerned.

 Collective government and working relationships

17.69 Tackling BSE entailed a huge exercise in public administration. It required close working between Ministers and officials, consultation and cooperation between Departments and efficient follow-up action. Our Inquiry has been a review of all these matters and of how far collective government rose to the challenge.

17.70 Collective government across the different parts of the UK required its own set of working relationships. By and large the machine worked reasonably well, but there were many recognised endemic difficulties. Unsurprisingly these sometimes gave decision-making on BSE a bumpy ride. We were told with some vigour of frustrations about failures and delays in communication between Whitehall and the territories.

17.71 In some respects this mirrored communication failings between Whitehall Departments, and between the cadres of administrative and professional advisers. For the territories, travelling times to and from London exacerbated the problems. Typical examples of these difficulties, where BSE was concerned, included MAFF delays in telling Scottish administrators about the disease and DH disinterest in views from Scotland and Wales.

17.72 Communication problems were particularly significant having regard to the reliance on Whitehall for scientific expertise and risk analysis. It made sense that such work was not duplicated. But if the material passed on was meagre and late, consultation was purely token. Moreover, without access to the basic information, the Territorial Departments had to rely on the judgements already made and on Q&A briefing that might itself slide over the underlying issues. The handling of BSE cast some of these difficulties into strong relief.