3. Statutory framework and responsibilities

The Secretary of State for Wales

3.1 During the years covered by this Report, the Secretary of State for Wales and his Department, the Welsh Office, had formal responsibility for most aspects of agriculture and health in Wales. Where agriculture or health matters affected the UK as a whole, the Ministry of Agriculture, Fisheries and Food (MAFF) and the Department of Health (DH) respectively took the policy lead. However, the Secretary of State for Wales was consulted about any policy decisions affecting Wales, and, as a member of the Cabinet, could press his concerns there. Secondary legislation such as Regulations and Orders usually required his formal approval as a co-signatory. He was advised on animal health matters by a Regional Veterinary Officer of the State Veterinary Service, who was designated Veterinary Adviser to the Welsh Office. The Welsh Office also had its own Chief Medical Officer, who advised the Secretary of State on human health matters. In principle, the advice of Welsh Office officials to the Secretary of State for Wales could have differed from that offered to the Secretary of State for Health or the MAFF Minister. However, the consultative process meant that this situation arose comparatively infrequently.

3.2 During the period covered by the Report, the following Ministers were successively Secretary of State for Wales. Mr (later Lord) Peter Walker held the office between 1987 and 1990, and was succeeded by Mr David Hunt, who was Secretary of State until 1993. Mr John Redwood succeeded Mr Hunt until 1995, when the latter returned as Acting Secretary of State for a period of a few days before Mr William Hague took over. Mr Hague held office for the remainder of the period.

The Welsh Office

3.3 The Welsh Office consisted of 12 operational groups or Departments under its Permanent Secretary (Grade 1) and two Deputy Secretaries (Grade 2). The Departments themselves consisted of a number of more specialised divisions. The two parts of the Welsh Office most involved in the BSE story were the Agriculture Department (WOAD) and, within the Health Department (WOHD), the Health Professionals Group under the Chief Medical Officer for Wales.

3.4 While there was a cadre of Welsh Office staff in Gwydyr House in Whitehall, the bulk of the permanent staff were housed in Cathays Park, Cardiff. The Welsh Office was smaller and more tight-knit than the operational Departments in Whitehall, and there was day-to-day contact across the divisions and groups saving...
with health, protection of the environment, agriculture, housing and finance. The Permanent Secretary at the Welsh Office between 1993 and 1996, Mr Michael Scholar, told the Inquiry that, given the width of the Welsh Office’s responsibilities, it was necessary for Ministers and senior officials generally to work on a highly delegated basis.22

3.5 Although MAFF and DH took the lead in some matters, the Welsh Office was consulted as policy was developed, and its officials would become involved in policy formulation when:

i. the issue was one where a different solution was needed in Wales;

ii. the issue was of particular importance in Wales; or

iii. the issue was important generally and Welsh Office involvement would contribute to wider discussion.23

3.6 On the other hand, the Welsh Office was unlikely to become involved when:

i. the issue was technical and the Welsh Office did not have access to independent advice;

ii. the issue was of little relevance to Wales; or

iii. the issue had no particular implications for Wales and the Welsh Office could make no contributions to discussion about it.24

Legislation on animal health

3.7 The Secretary of State for Wales shared responsibility for most animal health matters with the Minister of Agriculture, Fisheries and Food. Secondary legislation introduced in response to the BSE outbreak was mostly made under the Animal Health Act 1981, which applied across Great Britain. Thus the usual procedure for legislation made under this Act was for MAFF to send the Welsh Office a copy of the submission going to their own Minister about the draft Order (or Regulations).25 The Head of the relevant Division within the Welsh Office would then put forward a parallel submission to the Welsh Secretary of State, commenting on Welsh aspects or any implications for Wales and, where appropriate, seeking approval for the Order.26 The submission would normally be copied to various other parts and levels of the Office, including, exceptionally in the case of BSE, the Grade 2 or the Permanent Secretary, depending on its importance.27

Legislation on food safety

3.8 The ban on Specified Bovine Offal (SBO ban – see paragraph 5.7 below) was introduced in Wales under the provisions of the Food Act 1984, which applied to

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22 S434 Scholar para. 5
23 DW01 tab 2 para. 9
24 DW01 tab 2 para. 10
25 For a more detailed discussion of relevant provisions of this Act see vol. 14: Responsibilities for Human and Animal Health
26 S335 Davies D
27 S362 Rees O para. 24
both England and Wales. This meant that the Welsh Office, unlike the Scottish Office, did not need to make separate Regulations introducing the ban. Under the Food Act and other legislation, the powers of the Secretary of State for Wales (some of which were discharged jointly with the MAFF Minister) included:

- the making of Regulations for the purposes of food safety and consumer protection;
- the making of emergency control Orders under the Food Safety Act (see below); and
- the making of emergency Orders under the Food and Environment Protection Act 1985.

3.9 The Food Act 1984 was replaced by the Food Safety Act 1990, which consolidated the separate powers contained in the Food and Drugs (Scotland) Act 1956 and the Food Act 1984, and standardised the legislative regime governing food safety across Great Britain. The Secretary of State for Wales retained joint responsibility for food safety matters affecting Wales under the new Act.