

DFA 15

Monitoring and Enforcement of the SBO Regulations

Draft Factual Accounts

9 July 1999

This is one of a series of documents intended to provide an account as at the date of publication of the factual evidence received by the Inquiry. The documents do not make any judgements about the implications of the facts or point to any conclusions. They are simply working drafts seeking in a neutral way to set out relevant evidence. They do not contain any expressions of opinions by the Secretariat or the Committee of the Inquiry. The series will only cover certain areas of the evidence.

The DFAs may contain inaccuracies and omissions. The purpose of publishing them is to invite corrections, additions and comments. The Inquiry has received suggestions for such corrections and additions in relation to DFAs already published. This is helpful in furthering the work of the Inquiry; all suggestions are considered and used to update the Secretariat's working papers which will form the basis of the Committee's Report in due course. The DFAs should not be treated as setting out a complete and accurate appreciation of the relevant facts.

You are invited to let the Secretariat know of any errors, inaccuracies or material omissions in this DFA. It would be helpful if you could distinguish suggested amendments to the DFA from more general comments which would not involve such amendment. Please write to:

**The Secretary
The BSE Inquiry
6th Floor
Hercules House
Hercules Road
London SE1 7DU**

Email to : inquiry@bse.org.uk

Responses should reach the Secretariat by 9 August 1999 for them to be of most assistance to the Inquiry.

Draft Factual Account 15: Monitoring and Enforcement of the SBO Regulations

TABLE OF CONTENTS

EVENTS IN 1989	2
EVENTS IN 1990	6
EVENTS IN 1991	29
EVENTS IN 1992	41
EVENTS IN 1993	48
EVENTS IN 1994	52
EVENTS IN 1995	82
EVENTS IN 1996	129

Monitoring and Enforcement of the SBO Regulations

This Draft Factual Account is a narrative of the activities and documents relating to the monitoring and enforcement of the SBO Regulations. It covers the period from June 1989 to 20 March 1996. The introduction of the regulations on Human Food is described more fully in RFA 8, and the introduction of those on Animal Food in RFA 10.

Events in 1989

1. On 13 June 1989, it was announced that the Government intended to introduce a ban on the use of certain bovine offals for human consumption.¹ Following this announcement, MAFF embarked on a process of consultation, whereby interested parties and organisations were invited to comment on the draft provisions of the proposed Order (the Bovine Offals (Prohibition) Regulations 1989).
2. The consultation period for the Regulations ended on 13 September 1989. A copy of the summary of the comments received from interested organisations was circulated by Mr Maslin on 25 September 1989.² It was circulated widely within MAFF, and sent to Dr Pickles at the Department of Health and to the Territorial Departments.
3. The responses largely supported the introduction of the ban and the terms of the draft Order. However, the following matters were raised regarding the enforcement and enforceability of the draft regulations:
 - (i.) Additional burdens would be imposed on local authorities without increased resources;³
 - (ii.) Doubts were expressed about the practicality of enforcing all the regulations under the current system of local authority control;⁴
 - (iii.) It was suggested that the ban should be extended to inclusion of SBO in animal feed (as well as human);⁵
 - (iv.) It was suggested that the SBO material would cease to have any commercial value, and that this might lead to dumping/illegal disposal;⁶

¹ YB 89/6.13/2.1-2.2

² YB 89/09.25/2.1-2.12

³ YB89/9.25/1.2-1.3

⁴ YB89/9.25/1.17

⁵ YB89/9.25/1.6-1.7

⁶ YB89/9.25/1.4-1.5; YB89/9.25/1.9-1.10

- (v.) The exemption from the ban of spinal cord from calves under 6 months received criticism, most notably in respect of fears about the possibility of maternal transmission.⁷ However, there was also a call for the exemption to be extended to calves up to 12 months of age;⁸
- (vi.) There was concern that sterilisation as defined in the regulations would have no effect in destroying the agent;⁹
- (vii.) It was suggested that staining should distinguish between SBO and other 'unfit' material;¹⁰
- (viii.) There was concern that the regulations did not extend to sheep offal;¹¹
- (ix.) There was concern over the removal of meat from heads due to fears of contamination from pithing holes and tonsil splitting;¹²
- (x.) There was concern over the exemption for sausage casings/sutures;¹³
- (xi.) There was concern about contamination during carcass splitting and, in particular, concern that splitting often caused the spinal cord to be severed which could result in small pieces of cord becoming lodged between vertebrae;¹⁴
- (xii.) There was concern about mechanically recovered meat, particularly that recovered from the spinal column;¹⁵
- (xiii.) There was concern that removal of the specified offals did not fully remove the nervous and lymphatic tissue from the animal leaving some of those tissues in food for human consumption;¹⁶
- (xiv.) Concern was raised about the staining and movement of bovine heads;¹⁷
- (xv.) There was also concern as to who would be responsible for monitoring proper staining at head boning plants.¹⁸

4. A meeting to discuss the various responses took place on 27 September 1989.¹⁹ The meeting was chaired by Mr Cruickshank and attended by a

⁷ YB89/9.25/1.2-1.3; YB89/9.25/1.39-1.42

⁸ YB89/9.25/1.6

⁹ YB89/9.25/1.2-1.3

¹⁰ YB89/9.25/1.4-1.5

¹¹ YB89/9.25/1.6-1.7; YB89/9.25/1.9-1.10

¹² YB89/9.25/1.9-1.10; YB89/9.25/1.35-1.36; YB89/9.25/1.39-1.42; YB89/9.25/1.50-1.51

¹³ YB89/9.25/1.6-1.7

¹⁴ YB89/9.25/1.9-1.10; YB89/9.25/1.23; YB89/9.25/1.35-1.36; YB89/9.25/1.50-1.51

¹⁵ YB89/9.25/1.9-1.10

¹⁶ YB89/9.25/1.23; YB89/9.25/1.35-1.36; YB89/9.25/1.55

¹⁷ YB89/9.25/1.4-1.5; YB89/9.25/1.29-1.31; YB89/9.25/1.39-1.42; YB89/9.25/1.50-1.51

¹⁸ YB89/9.25/1.35-1.36; YB89/9.25/1.39-42

number of MAFF officials and representatives of the Territorial Departments. Issues discussed at the meeting included bovine eyes, sutures and other pharmaceutical products, the use of intestines for strings for musical instruments and sports equipment, MRM, a possible exemption for casings and rennet, T-bone steaks and barons of beef, disposal of lymphatic tissue, mesenteric fat, intestines, the effects of the proposed Regulations on local authorities, specialist boning plants, casualty animals and imports from the Republic of Ireland. On the subject of the effect of the SBO ban on local authorities, it was felt that the main additional burdens for them would come from an increase in the number of movement permits to be issued and the need to apply controls at head boning plants and sausage manufacturers. It was agreed that it was too late to seek extra financial provision for the 1989/90 and 1990/91 years, and that local authorities should be asked to produce a detailed breakdown of costs involved for consideration in relation to future years.²⁰

5. On the question of mechanically recovered meat, MAFF's note of the meeting stated:²¹

'The proposed ban on specified offal was in itself a measure of extreme prudence, going beyond what Southwood recommended. Though some nervous tissue would be contained in meat it would be minimal and not present a significant risk. No action should be taken on MRM.'

6. The note recorded discussion of the issues surrounding the removal and use of mesenteric fat. Whilst it was acknowledged that mesenteric fat did contain lymphatic tissue 'it was agreed that the production process made fat and tallow a low risk product and that the ban should therefore exclude mesenteric fat.'²²

7. The note recorded that pithing was not considered to be a problem and that there was no danger of contaminating cheek meat because the skin was still on the skull at the time.

8. Mr Martin, the CVO for Northern Ireland, prepared a note of the meeting of 27 September 1989 which noted the discussion of MRM as follows:²³

'Mechanically recovered meat (MRM) – the possible danger raised by several of those consulted was recognised and during the discussion there was an expression of the illogicality of what was being done and particularly how easy it would be to have to concede the possible dangers of material other than those listed in the proposed ban. It was agreed not to raise it.'

¹⁹ YB 89/09.29/1.1-1.7

²⁰ YB 89/9.29/1.1-1.7

²¹ YB89/9.29/1.2

²² YB89/9.29/1.4

²³ YB89/9.29/7.1

9. In evidence to the Inquiry Mr Martin stated that he did not think there was any distinction to be drawn between what he had recorded in respect of MRM and what was recorded in Mr Maslin's note of the meeting. He explained the rationale behind the decision on MRM as follows:²⁴

'What we were trying to do here was try to put what we thought at the time was a fairly small risk and put it into context and draw a line somewhere, do a risk analysis on it and draw a line. And I think the conclusion of the meeting as recorded there was that this was such a small risk it was completely negligible, was the conclusion at that time.'

10. The SBO Regulations were made on 8 November 1989, laid before Parliament on 9 November and came into force on 13 November 1989. The Regulations were made under the Food Act 1984 and prohibited the sale or preparation in food for sale for human consumption of any specified bovine offal as defined.²⁵ The Regulations required that following slaughter the SBO should be sterilised and/or stained at the slaughterhouse in accordance with the definition of those terms as set out in the Meat (Sterilisation and Staining) Regulations 1982.

11. On 9 November 1989, MAFF wrote to every district council in England and Wales and the local authority associations enclosing a copy of the new regulations and informing them they would be coming into effect on 13 November 1989.²⁶ The letter said: 'if you require any further information or technical advice concerning these regulations, please contact the Veterinary Service at your local MAFF Divisional Office'. On the same date a circular letter was issued to all Divisional Veterinary Officers alerting them to the fact that District Councils had been advised 'to contact the veterinary service at their local Ministry office if they have any queries about the operation of the Regulations.'

12. When Mr Cruickshank was asked in oral evidence what he considered to be the practicability of the SBO Ban. He said:

'As I recall, my feeling was that although, as I mentioned earlier, we were rather uneasy about the way the district councils were operating the meat hygiene control of slaughterhouses, one thing that did seem to be going quite well was the operation of the sterilisation and staining regulations, which dealt with an earlier problem of unfit meat being passed off as fit for human consumption. That bit of the system seemed to be working quite well.'²⁷

Mr Cruickshank had earlier stated in his evidence that there was a feeling within the Ministry 'that the standards of hygiene in slaughterhouses was

²⁴ T80 p131

²⁵ L2, Tab3B, 4(a)-(b)

²⁶ YB 89/11.9/4.1

²⁷ T32 p143

pretty low in the UK, a good deal lower than most other developed countries'.²⁸

13. Mr Cruickshank was succeeded in the post of grade 3 Head of the Animal Health Group in December 1989.²⁹

Events in 1990

14. Carrick District Council raised the matter of the removal of brains from bovines in slaughterhouses with their local MP, Mr Matthew Taylor. Mr Taylor wrote to the Minister (Mr Gummer) on 11 January 1990 (see YB90/1.19/10.3) and also requested a meeting. Mr Lowson's advice to the Minister's office stated:³⁰

'If care is not exercised when removing brains there is a possibility that brain tissue may be transferred to head meat. Techniques are available which minimise this. There is therefore no reason to prohibit the use of head meat from animals whose skulls have been opened.

The method objected to by [redacted] is not one we would recommend and is likely to cause contamination of the head meat and the saws used. Washing (and sterilisation for the saws) would remove most brain material but not all. It is therefore a matter of judgement on the risk from this residual contamination.

In considering the risk involved [redacted] Council have ignored the important point that the offal ban is a precautionary measure and not directed at known cases of BSE. These are killed and the carcasses destroyed. The animals being handled in the slaughterhouse are for the most part healthy. The ban is directed at the very few cases (if any) that have escaped our monitoring arrangements or animals that are infected but have yet to develop clinical signs. In subclinical cases the agent is not normally found in the brain until the later stages. Thus, even putting aside the fact that the risk for humans from BSE is remote, the risk from contamination of head meat by brain tissue must be almost negligible.'

15. On 24 January 1990 the relevant Regional Veterinary Officer, Mr Neal Farr, attended a meeting of the Regional Group of Chief Environmental Health Officers at which concerns about the SBO Regulations BSE were discussed.³¹ During the meeting Mr David Shepherd, EHO of Carrick District Council claimed that SBO Regulations were 'very difficult to enforce.' Mr Farr inquired of the meeting 'how many had implemented a ban on head slitting, few responded affirmatively. However, several present said that they would like to impose such a ban but did not think

²⁸ T32, p60

²⁹ S Cruickshank, para. 10.6

³⁰ YB90/1.19/10.1

³¹ YB 90/01.17/13.1-13.2; YB 90/01.25/13.1-13.2

they had the legal backing to do so'.³² After the meeting, Mr Shepherd said to Mr Farr 'it was quite possible to remove the head meat prior to splitting of the brain but he (Mr Shepherd) said that this did not fit in with the commercial considerations of the companies concerned.'

16. Mr Farr subsequently wrote to Mr Crawford on 25 January 1990 concerning the 24 January 1990 meeting.³³
17. On 26 January 1990 Mr Crawford minuted Mr Baker regarding the January 1990 meeting (enclosing a copy of the letter from Mr Farris to Mr Crawford date 25 January 1990) stating:³⁴

'We now need to take some action to defuse the situation and I suggest that we arrange a meeting with the Institute of Environmental Health Officers as soon as possible.'

18. As a further response to those concerns, Mr Hutchins of the SVS was at this time 'asked by Mr Baker to undertake visits to a number of slaughterhouses to witness different techniques for brain removal'.³⁵
19. Mr Hutchins presented his report on head splitting practices on 9 February 1990. He stated:³⁶

'Four methods of brain removal were observed. Three involved sawing through the skull (and thereby the brain), one used a water/air mixture to drive brain tissue from the intact skull. The three "skull-open" methods produced very small amounts of a bone paste that would have included traces of brain tissue. There was a chance that this could be transferred to cheek meat, but only in tiny quantities. Routine hygiene precautions would have further lessened this effect.

The "skull-closed" method produced a considerable spray of brain/water mixture. There was a reasonable probability of this mixture being transferred to exposed cheek meat. The operator and the immediate vicinity would also become contaminated'.

*Clarification: Mr Gummer's statement to the Inquiry suggests that he was not aware of Mr Hutchins report until 20 February 1990*³⁷

20. The Minister was not yet aware of Mr Hutchins' report when he met Matthew Taylor MP on 15 February. In his minute of 19 February 1990, Mr Harrison recorded the Minister's discussion with Mr Taylor with regard to the question of head splitting:³⁸

³² YB90/01.25/13.1-13.2

³³ YB90/01.25/13.1-13.2

³⁴ YB90/01.26/19.1

³⁵ S Hutchins 086 para 17

³⁶ YB90/2.9/1.1 at 1.2

³⁷ S Gummer 311 para 112

³⁸ YB90/2.19/6.1

‘The Minister said that, although he was confident that the procedures advocated by the SVS allowed no possibility of hazard to human health, he was prepared to re-examine the points which had been raised by the Environmental Health Officers. He undertook to organise a review of the contrasting arguments put forward by the EHOs and the SVS; the Minister would invite a suitable outside expert to advise him’

21. On 1 February 1990, the IEHO wrote to MAFF regarding the difficulties in the interpretation, compliance with and enforcement of the Bovine Offals (Prohibition) Regulations 1989.³⁹ The IEHO was concerned about the speed with which the ban had been implemented and recorded that a number of environmental health departments had not received copies of the Regulations until after the ban had come into force. The IEHO had also been made aware of instances where Divisional Veterinary Officers contacted about procedures were similarly uninformed. The specific comments raised by the IEHO were as follows:
- (i.) many specialist boning plants were not under normal circumstances receiving daily veterinary/EHO supervision;
 - (ii.) to allow the tail, from which it is almost impossible to remove the spinal cord, to be regarded as fit for human consumption was arguably inconsistent with the ban on the inclusion of spinal cord;
 - (iii.) in practice the spinal cord was often shredded and fragmented by the mechanical carcass splitting saw, not only contaminating the meat but also prohibiting effective removal as per the regulations;
 - (iv.) sterilisation, as defined by the Meat (Sterilisation and Staining) Regulations 1982, would have no effect in destroying the BSE agent. The IEHO pointed to the Southwood Report as indicating that complete destruction of the scrapie agent was not achieved by heat at 121° Celsius for one hour; and
 - (v.) problems were encountered in assessing whether a calf was more or less than six months old.
22. Concerns were also raised by the IEHO about the practice of removing the brain from the skull of a bovine animal within the abattoir. Many small slaughterhouses removed the brain and stained it, so that the head could be freely returned to the butcher. The IEHO identified a number of ways by which the brain was removed, which they did not believe that the Ministry would condone. They identified the following:
- (i) the splitting of the head with cleavers;
 - (ii) the use of band-saws to split the heads;
 - (iii) the use of low pressure hose jets; and
 - (iv) removal of brain through the stun hole by suction.

³⁹ YB90/2.1/2.1-2.11

23. None of the identified practices were, in the view of IEHO, capable of guaranteeing the effective removal of the brain without resultant contamination of the head. The IEHO therefore advised that removal of the brain should be prohibited. They suggested that the removal of head meat should be confined to the slaughterhouse where it could be effectively controlled. Further, they suggested that all removal of head meat should take place prior to the splitting of the skull for removal of the brain. After removal of head meat, the head would then be stained and treated along with all other SBO.
24. The IEHO also stated that ‘the subject of storage and disposal of SBO and the issuing of movement permits has caused considerable confusion and presented many practical difficulties’.⁴⁰
25. On 23 February 1990, the Permanent Secretary, Mr Andrews, minuted the Minister, Mr Gummer, regarding his recent meeting on the subject of head splitting with Mr Taylor MP. Mr Andrews attached a copy of the report on head splitting which had been prepared by Mr Hutchins.⁴¹ Mr Andrews went on to say:⁴²
- ‘We are, here, of course dealing with the heads and brains from healthy cows and Mr Hutchins’ report indicates that the amount of contamination by brain tissue of cheek meat would be very small. You asked why it could not be made a requirement that the head was not split until the cheek meat had been removed...if we were to amend the regulations...it would be likely to simply shift the argument from the splitting of heads to the splitting of spines where the same sort of issues could be raised.’
26. Mr Andrews further suggested that Dr Tyrrell was not an appropriate person to provide expert judgement on butchery practices. He recommended Mr A Johnston, senior lecturer at the Royal Veterinary College, as an appropriate person to consult. Also attached to Mr Andrews’ minute was:
- (i) a minute from Mr Crawford setting out Mr Johnston’s qualifications; and
 - (ii) a draft letter to be sent to Mr Johnston if the Minister agreed to seek his opinion.
27. On 26 February 1990, Mr Harrison, PS/Minister, minuted Mr Robinson, PS/Permanent Secretary, agreeing to Mr Andrews’ suggestion (in his minute of 23 February 1990) that an opinion be sought from Mr Johnston on head-splitting practices in slaughterhouses.⁴³

⁴⁰ YB90/2.1/2.6

⁴¹ YB90/2.9/2.1-2.3

⁴² YB90/2.23/3.1

⁴³ YB90/2.26/4.1

28. On 7 March Mr Johnston reported back to Mr Meldrum on head splitting. His findings generally endorsed Mr Hutchins' 9 February 1990. He recommended that meat 'should be removed before any saw cut which enters the cranium'⁴⁴ but that where this was not possible 'the head should be stored in a chill until the meat has set'.⁴⁵ He was 'concerned that the longitudinal cut using the band saw . . . is the one saw cut which transects the area of the brain in which any BSE agent is likely to be present' and commented that 'the high pressure water/air method . . . is not acceptable if contamination of the meat on heads is to be avoided'.⁴⁶ Mr Meldrum replied on 9 March, noting that 'the only issue where we have some difference of interpretation is on the longitudinal cut along the midline of the head . . . I will now discuss your report with my colleagues at Tolworth Tower...'⁴⁷
29. Taking into account Mr Johnston's report, draft guidance to local authorities on the splitting of bovine heads and brain removal was sent to Mr Hill, PS/Parliamentary Secretary, on 4 April 1990 by Miss Jones, Meat Hygiene Division.⁴⁸ The Parliamentary Secretary advised that he was happy with the draft provided. The draft guidance followed Mr Johnston's recommendation that where possible head meat intended for human consumption should be removed from the skull before any cut was made into the skull to remove the brain. The recommended technique for opening the skull was the oblique cut method, this being the technique which Mr Johnston had reported as producing negligible smearing with easy brain removal and no brain tissue being left in the cranium (provided the skulls were sawn within 24 hours of slaughter - a recommendation which was also included in the draft guidance). Also in accordance with Mr Johnston's report, the use of high pressure water jets to remove brain tissue was not recommended.
30. On 9 April 1990, a meeting took place with the IEHO to discuss the concerns they had expressed regarding difficulties associated with the Bovine Offal (Prohibition) Regulations 1989.⁴⁹ The meeting was chaired by Mr Baker and attended by Miss Jones, Mr Maslin and Ms Rimmington of MAFF, and Mr Corbally of the IEHO. On the issue of timing, MAFF acknowledged that the timescale for the introduction of the Regulations had been unusually short and that this might initially have led to some enforcement difficulties. However, MAFF officials stated that considerations of public health and awareness had necessitated the speed of action, which IEHO accepted. IEHO offered help in disseminating such information in the future, to which MAFF said that patterns of decision making in Brussels might make this a useful resource. IEHO agreed that

⁴⁴ YB90/3.7/2.3 para 1

⁴⁵ YB90/3.7/2.3 para 2

⁴⁶ YB90/3.7/1.1

⁴⁷ YB 90/03.09/8.1

⁴⁸ YB 90/4.4/5.1-5.3

⁴⁹ YB90/4.9/1.1

any suggestions it put forward for improvements to the Regulations would be mindful of the need not to complicate the Regulations any further.

31. Mr Corbally wrote to Mr Baker on 18 April 1990 expressing gratitude for ‘what turned out to be an informative and worthwhile discussion’.⁵⁰ However, Mr Corbally reported that ‘there are still a number of points that concern me and the Institution may wish to seek your views once more on these issues.’ In respect of head splitting, Mr Corbally stated:⁵¹

‘...the Institution clearly welcome the fact that the Ministry are looking into what we believe is a practice not considered at the time the Regulations were drawn up and implemented. Our view is that none of the practices that we have identified can guarantee no contamination with brain tissue (and potentially therefore with the infective agent of BSE) of either the head, equipment or environment. We believe that the only way of minimising the risk to public safety is to prohibit removal of the brain. While the removal of head meat would be best performed at the place of slaughter, legislative controls over brain removal would continue to allow head meat to be removed at specialist boning plants where the facilities for effective removal are not available at the slaughterhouse.

Despite this view, if a practice can be identified where the brain can be removed with no risk of contamination and no risk to the safety of the operator, consideration should certainly be given to its use. However, guidelines detailing the procedure to be followed must be developed and brought to the attention of all operators and enforcement officers. Furthermore, they should state that the particular process is the only one considered acceptable. The problem that may arise is that in identifying one “safe” practice others may be developed that should be subject to similar guidance’.

32. On issuing guidance to local authorities on more general matters Mr Corbally stated:⁵²

‘On the issue of guidance the Institution welcome the suggestion that the Ministry may consider issuing guidance to local authorities on particular aspects of the Regulations and their interpretation. Clearly it is the Courts that make the final decisions with respect to interpretation, however guidance as to what the Ministry’s intentions were behind particular parts of the legislation would certainly be of assistance to EHOs. I refer particularly to the points raised relating to the storage and disposal of the specified offal and the issuing of movement permits. The Institution will certainly assist the Ministry in developing and disseminating any guidance if this would be helpful.

‘You will recall that one of the issues where concern was expressed by a number of EHOs, and one that must clearly be addressed if ever a similar exercise is required, relates to the speed of introduction of the legislation and more importantly the distribution of the regulations and associated

⁵⁰ YB90/4.18/4.1-4.4

⁵¹ YB90/4.18/4.2

⁵² YB90/4.18/4.2

information. The Institution do however understand the difficulties involved. On one hand if the legislation is required to protect the public its introduction must not be delayed but on the other hand, ill-conceived introduction can be both confusing and counter-productive. In order to assist in the distribution of information, as agreed I will be forwarding you a list of Directors of Environmental Health/Chief EHOs and appropriate contact numbers.'

33. Mr Corbally also asked for the Department's views on the following:⁵³

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

(b) As degenerative encephalopathies have long incubation periods with unknown infective doses, and as diagnosis is at this time symptom-based would it not be right to say that the number of cattle that may be incubating the infective agent of BSE is unknown? Do you not consider therefore that the Southwood Committee's prognosis of eradication of this problem in cattle by 1993 is optimistic?'

34. Following discussions between the Parliamentary Secretary and the Minister, Mr Hill minuted Mr Griffiths on 27 April 1990 that the Ministers had some "qualms" about the practice of removing brains before removing head meat and since there were two other "quite satisfactory practices" available (i.e. where head meat is either removed at the slaughterhouse or at a head boning plant, and then the intact head is sent for rendering), they felt that if there were any doubts about the practice of removing the brain first, then it should be banned.⁵⁴ In response to this Mr Griffiths sent a minute to Mr Hill dated 2 May 1990 explaining the investigations which had been carried out into the methods of brain removal and the consequences for some slaughterhouses and specialist boning plants of banning brain removal.⁵⁵ He noted that industry interests would demand justification for any such ban when the risks of contamination were minimal. Accordingly, the recommendation remained that no action be taken to ban brain removal before recovery of head meat and no legislation be introduced on brain removal methods, but that guidance be issued to

⁵³ YB90/4.18/4.2

⁵⁴ YB 90/04.27/1.1

⁵⁵ YB 90/05.2/1.1-1.2

local authorities on the matter.⁵⁶ The Parliamentary Secretary agreed with this recommendation.⁵⁷

35. Having received agreement from Ministers on the guidance to go to local authorities on the removal of bovine brains, under cover of a minute dated 16 May 1990 Miss Jones circulated the guidance for comments before it was submitted in final form. Mr Meldrum provided Miss Jones with comments, identifying various points that he felt needed clarification.⁵⁸ In particular, in response to Miss Jones' comments that DAFS, DANI and DHSS (NI) might wish to consider issuing similar advice in Scotland and Northern Ireland, he expressed the view that any guidance to local authorities must apply to the whole of Great Britain as to do otherwise would cause problems with the SBO regulations.

36. A question and answer brief was supplied to the MAFF Parliamentary Secretary, Mr Maclean for a debate in the House of Commons on BSE on 21 May 1990. In respect of the legislation covering slaughterhouse hygiene in relation to BSE it stated:⁵⁹

‘The Specified Bovine Offal (Prohibition) Regulations 1989 prohibit the sale of certain bovine offal for human consumption, and lay down strict controls over how it must be treated, and where it may go from the slaughterhouse. In addition the Slaughterhouse Hygiene Regulations 1977 provide general hygiene principles which must be adhered to in all processes, including the removal of specified bovine offal.’

37. In the debate on BSE which took place in the House on 21 May 1990, Mr Gummer made the following remarks concerning the Government's advice on slaughterhouse practice:⁶⁰

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

Clarification: The Inquiry is not aware of any evidence to suggest that consideration was given to the idea of referring the issue of slaughterhouse practices to Tyrrell prior to Mr Gummer making the above announcement to the House.

38. On 22 May 1990 a telex was issued by Mr Baker to all DVOs in England, Wales, Northern Ireland (Mr Meldrum suggests that the inclusion of

⁵⁶ YB90/5.2/1.1 at para 5

⁵⁷ YB90/5.2/1.1 at 1.2 manuscript note

⁵⁸ YB90/05.21/8.1-8.3

⁵⁹ YB90/5.21/28.9

⁶⁰ M7 tab9, p.90

Northern Ireland may have been an error⁶¹) and Scotland advising that it was not acceptable for brains to be removed in slaughterhouses using high pressure water hoses and that this should be explained in response to any queries received as to the most appropriate technique for brain removal.⁶² Mr Baker's telex stated that 'we continue to receive reports about bovine brains being removed at some slaughterhouses using high pressure hoses'.⁶³ The telex said that this practice 'is not acceptable in view of the extent of splashing of brain tissue and water that occurs. Fuller guidance on this matter will be issued as soon as possible. In the meantime I should be grateful if any similar queries received by you and your staff could be answered in the manner suggested above. RMHA's should be in a position to offer advice, where necessary, on the most appropriate techniques but the optimum is to remove head meat prior to brain removal'.⁶⁴

39. On 22 May 1990, the Minister discussed with the Permanent Secretary the possibility of referring questions on slaughterhouse practices to SEAC.⁶⁵ Given that SEAC had no expertise covering slaughterhouse practices, it was decided that it would be appropriate to suggest they involve Mr Johnston, senior lecturer at the Royal Veterinary College, in their proceedings.

40. At its third meeting on 13 June 1990, SEAC considered slaughterhouse practices. The minutes of the meeting recorded (amongst other things) that:⁶⁶

'The Committee felt that precautions about removal of the brain from bovine skulls were a common sense measure. It was not consistent with this policy to permit the removal of the brain before head meat was harvested.

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

41. On 14 June 1990, a telex was sent by Mr Meldrum to all DVOs, RVOs, RMHAs, RMAs and DEOs advising that 'as a result of a detailed evaluation of practices currently in use in slaughterhouses and boning plants, MAFF has concluded that bovine head meat must be recovered from the intact skull before the brain is removed.'⁶⁷ DVOs were also

⁶¹ S 184A Meldrum, Section F, para.53

⁶² YB 90/5.22/8.1

⁶³ YB90/5.22/8.1 at para 1

⁶⁴ YB90/5.22/8.1 at paras 2-4

⁶⁵ YB90/5.22/1.1

⁶⁶ YB90/6.13/1.3

⁶⁷ YB 90/06.14/3.1-3.3

instructed to pass the information to all OVSs and local authorities in their Division.

42. On 26 June 1990 Mr Andrews minuted the Minister with a short paper summarising the 'next steps' in respect of BSE.⁶⁸ The minute was copied to Mr Capstick, Mr Meldrum, Mrs Attridge and Mr Lowson. Of relevance to SBO controls were the following:⁶⁹

Mechanically Recovered Meat

'A paper is being prepared for the Tyrrell Committee on this which will be submitted to you [the Minister] before it goes to the Committee'.

Obvious nervous and lymphatic tissue – 'Guidance has been circulated...however need to consider to what extent that advice...has achieved the intended result and whether any further action (for example, encouraging the industry to put out separate advice to butchers/retailers) is necessary'.

Slaughterhouse practices – 'A paper is being prepared for the Tyrrell Committee on this subject. Again this will come to you before being sent to the Committee'.

43. On 5 July 1990, Mr Maclean minuted the Minister about tidying up some loose ends in relation to BSE 'now that all safety precautions for BSE are in place'.⁷⁰ The minute was copied to Mr Capstick, Mr Meldrum, Mrs Attridge and Mr Lowson. Mr Maclean's summary was as follows:⁷¹

'1. Dr Tyrrell should be asked to consider pithing rods in his study of slaughterhouse practices. IMMEDIATE ACTION.

The labelling of MRM should be raised in the EC and decided in that forum. The decision to do so should be made before Tyrrell reports.

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

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

We should announce that our guidelines 'banning' head splitting in meat halls will be made statutory. Arrange PQ on Tuesday. IMMEDIATE ACTION.

Add major lymphatic material to the Specified Offals. IMMEDIATE ACTION.

⁶⁸ YB90/6.26/1.1

⁶⁹ YB90/6.26/1.1-1.2

⁷⁰ YB90/7.5/4.2

⁷¹ YB90/7.5/4.7

Prepare for the possibility that we may in future have to ban offals in pig and poultry feeds. No immediate action required except to agree the principle and be ready to admit that if asked.

Prepare for the possibility of a problem with pet foods. Kick this into the EC forum by suggesting contents labelling throughout Europe. No immediate action required except agreement in principle and a willingness to admit this if pressed.⁷²

44. Mr Lebrecht's minute also of 5 July 1990 asked Mr Andrews to advise on the implications of each of the points raised by Mr Maclean.⁷³ Mr Andrews did so on 10 July 1990 setting out action proposed where action was required in respect of BSE.⁷⁴ Mr Andrews advised that any ban on head splitting should await the recommendations of the House of Commons Agriculture Select Committee. With regard to lymphatic material, he stated: 'I am sympathetic to the point. It does look illogical not to treat as for specified offals. But there are clearly serious problems about extending the ban.'⁷⁵ The background note attached to the minute stated in respect of lymphatic material:⁷⁶

'A statutory provision would...increase public concern as it would be assumed that such removal had not been normal practice and could lead to pressure for the removal of all such material from meat, which would be impossible to implement as lymphatic material is throughout the carcase and is exposed wherever meat is cut.'

45. The background note went on to say that 'there is not much that we can do now to prepare for the possibility that offals (presumably specified offals) will need to be banned from pig and poultry feed.'⁷⁷ It further stated that action would not be justified unless pigs were infected by the feed route. The minute was copied to Mr Capstick, Mr Meldrum, Mrs Attridge, Mr Griffiths and Mr Lowson.

46. The House of Commons Agriculture Committee, Fifth Report on BSE was published on 10 July 1990.⁷⁸ The Committee heard evidence from a wide range of sources. Amongst the evidence heard in respect of the enforcement of the SBO regulations was the following:

- (a) In its memorandum of evidence the IEHO raised concern over the following slaughterhouse practices:⁷⁹

⁷² YB90/7.5/4.7

⁷³ YB90/7.10/4.1

⁷⁴ YB90/7.10/4.1

⁷⁵ YB90/7.10/4.1 at para 6

⁷⁶ YB90/7.10/4.8

⁷⁷ YB90/7.10/4.9

⁷⁸ IBD7

⁷⁹ IBD7, page 107

- (i) Head splitting – due the danger of contaminating head meat which is removed for inclusion in human food.
 - (ii) MRM – concern was expressed about the possibility that significant quantities of spinal cord and nervous tissue would be contained in the final product.
 - (iii) Carcase splitting – IEHO gave evidence that the spinal cord is usually severed, on occasions along its length, spreading cord tissue across the whole cut surface of the split carcase, the saw blade and the immediate environment.
- (b) The BVA memorandum of evidence stated:⁸⁰

‘MAFF should forthwith tackle the procedures, duties, standards and supervision of slaughterhouse practice... Veterinary ante mortem and post-mortem inspection should be extended to domestic slaughterhouses forthwith... Greater reassurance is needed that the removal of spinal cord from bovine carcasses does not present a problem in transferring some spinal material to meat.’

- (c) Mr Gummer gave evidence in respect of the issues raised regarding slaughterhouse practices:⁸¹

‘...we have had an independent report on this which in general supports what we are doing but has some changes. That has now gone to the Tyrrell Committee because I want them to look at this and say do they think this meets the requirements which they, with their much greater knowledge of BSE, would expect.’

In respect of the resources being made available for enforcement of the controls he went on to say:

‘As far as resources are concerned we have, of course, made the resources available for the sort of inspection which has to be done in any case both under European Community rules and under our own rules as far as this country is concerned. There will be additional resources under the Food Bill to cover the extra, and as you know that is some £30 million which is additional resources and I emphasise that is what it is. Therefore, I have not at the moment got any indication there are other resources which are necessary to meet this. Of course, once the guidelines are put forward I shall be watching very carefully because I will now have power [under the Food Safety Act] to step in if resources are not provided and one of the things that a local authority would no doubt say to me is that it does not have the resources to do what it feels to be the right job. I shall be watching that very carefully.’

⁸⁰ IBD7, page 220

⁸¹ IBD7, page10

- (d) Mr H C Oberst of the Meat & Livestock Commission gave evidence concerning processing of bovine brains:⁸²

‘In only 33 abattoirs, representing less than 4 per cent of British cattle slaughterings, is brain removal attempted, and the methods employed vary. In only two cases was an attempt made to split the skull with a bandsaw, and that is a matter about which some concern has been expressed....But we are satisfied that in what is happening now there is already no danger to human food...the cheekmeat certainly has a value and the recovery of the cheekmeat from the head should not be banned. The removal of the brain from the skull is another matter and if the skull and the brains within it were dumped, we believe that the loss to the abattoir would not exceed about 36p per animal. We suspect that the abattoir industry could accept that.’

- (e) The CMO, Sir Donald Acheson, gave the following evidence regarding the possible contamination of carcasses with SBO material:⁸³

‘Then we get into the issue of contamination of bovine meat products by one or other of the materials, such as brains and the spinal cord. I know that you have received evidence on that. When we get into the technicalities of how carcasses are butchered I would have to turn to my colleague, the Chief Veterinary Officer, but in general we are talking about a degree of contamination which, if you take the total dose or theoretical dose that might be consumed in the material, will be very small. It is tiny anyway because we know that the spongiform agent does not appear in meat in any case in tangible quantities. On the matter of contamination I would simply say that from the public health point of view, if this is regarded as significant in any way it would be prudent to see what could be done to reduce it, but I am advised that currently there is not a significant public health problem due to this. That would be my position.’

47. The Report of the Agriculture Committee made the following recommendations regarding procedures in slaughterhouses:⁸⁴

‘50. This as we have already indicated, is an area of legitimate public concern. It is essential that action is taken, and seen to be taken, which makes the ban on specified offals as watertight as possible. Many of the horror stories which have been told, conveying a picture of brains being splattered indiscriminately about the slaughterhouse, are greatly exaggerated and bear no relation to normal practice. But there may be some scope for improvement in the present arrangements.

...

53. MAFF issued guidelines on abattoir practice on 14 June and the Tyrrell Committee is engaged in its own review which will no doubt lead in due course to supplementary guidance and, if necessary, regulatory powers. In

⁸² IBD7, page 103

⁸³ IBD7 page 125, paragraph 450

⁸⁴ IBD7

those circumstances, and in view of our own fairly limited examination of the subject, it would not be appropriate to bring forward detailed proposals of our own. We do, however, feel in a position to **recommend that the practice of splitting the heads of cattle in abattoirs be outlawed**. It brings no significant benefits to anybody and is practically guaranteed to spread public alarm.

54. We were pleased to note that Dr Tyrrell voiced similar reservations about the latter practice.⁸⁵ Recent MAFF guidelines also stipulate that “bovine head meat must be recovered from the intact skull before the brain is removed”.⁸⁶ This is a substantial step in the right direction, although we would like to see appropriate safeguards enshrined in legislation at an early opportunity.’

48. At a meeting to discuss the recommendations of the Select Committee on 25 July 1990 it was agreed to respond as positively as possible to the Select Committee’s recommendation on the need to legislate on brain removal.⁸⁷ The Bovine Offal (Prohibition) (Amendment) Regulations 1992 came into force on 12 March 1992.
49. The recommendation that the SBO ban should be extended to cover calves was rejected. The note of the meeting stated:⁸⁸
- ‘In rejecting it, the Government could make it clear that we have indicated to Dr Tyrrell that if evidence emerged which led his committee to want to change any aspect of its advice then we were open to this.’
50. On a further point, not covered by the Select Committee, the note records that Mr Meldrum wondered whether it would be worth examining again the question of requiring the staining and sterilisation of obvious lymphatic tissues. The Minister agreed that this should be done, with a view to taking any necessary action before the response to the Select Committee was published.⁸⁹
51. In August 1990, it was learned that BSE had been experimentally transmitted by direct inoculation to a pig. On 23 August 1990, the CMO was informed of this development by a minute from Dr Pickles.⁹⁰ The minute informed him that a special meeting of SEAC had been arranged to discuss the issue. SEAC felt it would be prudent to exclude SBOs altogether from the pig diet. The occurrence of FSE in cats, even though it had not been demonstrated that there was any relationship with BSE, suggested that a cautious view should be taken. Thus SEAC concluded that SBOs should be excluded from the feed of all species.⁹¹

⁸⁵ IBD 7

⁸⁶ IBD 7

⁸⁷ YB 90/07.30/2.1-2.3

⁸⁸ YB90/7.30/2.1 at para 9

⁸⁹ YB90/7.30/2.1 at para 13

⁹⁰ YB90/8.23/1.1; S Acheson, para 106

⁹¹ YB90/9.7/1.1

52. On 10 September 1990, Miss Bronwen Jones minuted Mrs Attridge about limiting statutory requirements regarding lymphatic tissue.⁹² The minute was copied to Mr Meldrum, Mr Griffiths and Mr Lowson. Miss Jones stated:

‘In the eyes of the public lymphatic tissue is either safe to eat or it is not, and it would be difficult to draft legislation which did not draw attention to this difficult point...I am forced to conclude that we could only legislate on lymphatic tissue at the risk of creating further problems both for ourselves and for the industry, who would have more unsaleable waste to dispose of and would suffer from further – unnecessary – consumers’ concern about the safety of carcase meat.’

53. The BSE (No2) Amendment Order 1990 (SI 1930 of 1990) was brought into force on 25 September 1990.⁹³ Its main purpose was to extend the prohibition on the use of SBOs, or protein derived from SBOs, so as to exclude their use in feed for all animals and poultry.

54. On 25 September 1990, a letter was sent from Mr Crawford to all DVOs giving notice of the new Regulations.⁹⁴ The letter was copied to Mr Meldrum, Mrs Attridge and Mr Lowson. The letter said:

‘I would like you to take the following action:

Would you please contact the Local Authorities responsible for enforcing the disposal aspects of the [SBO Regulations] to ensure that they are fully aware of the legal position...

Would you also contact any rendering company in your area to advise them that you have been in touch with the Local Authorities to make clear to them what the legal position is. Would you please ask the renderers to let you know if they have any evidence that the rules are being breached.

Clearly, if difficulties are arising, I would like to know so that we have a picture of the position throughout the country as a whole.

I am sorry to burden you with these additional tasks. However, this is a very sensitive area, with health and environmental implications. It is also an area which the media is quite likely to latch onto if major problems do arise.’

55. On 27 September 1990, Mr Lawrence minuted Mr M Stranks about identification of meat and bonemeal (MBM) derived from specified offal in animal feed.⁹⁵ Mr Lawrence explained that Mr Meldrum had asked whether any practical means existed for identifying MBM from specified offal in animal feed. On the assumption that such a test did not exist, Mr Lawrence asked Mr Stranks whether it would be possible to incorporate a

⁹² YB90/9.10/3.1

⁹³ L2 Tab 5

⁹⁴ YB90/9.25/1.1

⁹⁵ YB90/9.27/6.1

marker in the material which could be recognised visually or by some sort of test. The minute was copied to Mr Meldrum, Mrs Attridge and Mr Lowson.

56. On 1 October 1990, UKRA wrote to all its members enclosing a letter which had been received from MAFF on 27 September 1990.⁹⁶ The letter from MAFF stated that DVOs had been requested to contact any rendering company in their area to advise them that they had been in touch with the local authorities and to ask them (the renderers) to let DVOs know if they had any evidence that the rules regarding disposal of the specified offals were being breached.
57. On 4 October 1990, Mr Lawrence received a letter from DANI regarding the extension of the ban on the use of SBOs.⁹⁷ The letter from DANI expressed concern over the apparent weakness in the audit trail on the use of meat and bone meal. The letter stated that unless a defensible audit was in existence, adverse consumer reaction could mount and do substantial damage to the meat industry. It went on to say:
- ‘We are strongly of the view that action on this is necessary to prevent leakage of meat and bone meal back to bovines, as well as being seen to be securing consumer safety’.
58. On 8 October 1990, Mr Lawrence minuted Mr Lowson regarding the letter from DANI.⁹⁸ Mr Lawrence said that MAFF were assessing the question of a marker for SBO material. However, discussions UKASTA had revealed that they felt a marker would be impractical. Mr Lawrence reported that UKASTA had suggested that, as part of their contractual arrangement with renderers that SBOs be excluded from meat and bone meal, they should make unannounced checks on abattoirs to ensure that proper separation was being achieved.
59. On 11 October 1990, Mr Maslin wrote to Ms Richmond of MAFF’s Legal Division, regarding errors in the BSE (No. 2) Amendment Order 1990.⁹⁹ The minute was copied to Mr Meldrum and Mr Lowson. He began, ‘Not surprisingly, in view of the haste and secrecy in which it was prepared, we have two errors in the above order pointed out to us’. In respect of the first error Mr Maslin stated the following:

‘It was our intention simply to re-enact the ban on ruminant proteins to ruminants in the amendment Order. Unfortunately the change to the definition of animal means that the definition of animal protein is wider than just ruminant protein. In practice this has had no effect since no rendering plant produces any animal protein from, say, just pig material. Nevertheless, we should put it right. Could I suggest something on the

⁹⁶ YB90/10.1/3.1-3.3

⁹⁷ YB90/10.4/2.1

⁹⁸ YB90/10.8/3.1-3.2

⁹⁹ YB90/10.11/6.1

lines of adding ‘derived from ruminants’ after ‘animal protein’ in 8 (1) and 8 (2) of the BSE Order.’

60. The second point related to the definition of ‘specified bovine offal’. As worded, it referred to offal from animals slaughtered in the UK. This appeared to exempt fallen stock and MAFF had received unconfirmed reports that renderers were taking advantage of this to make use of those fallen animals in processed feed.
61. In October 1990 the IEHO made a submission to the Ministry regarding the illegal trade in unfit meat for human consumption.¹⁰⁰ With regard to the operation of the Meat (Sterilisation and Staining) Regulations and the Food Act 1984 the IEHO recommended that ‘careful consideration should be given to the effectiveness of the Meat (Sterilisation and Staining) Regulations and to seek changes where necessary’. In particular IEHO noted:¹⁰¹

‘The original report [IEHO report “The Illegal Trade in Unfit Meat for Human Consumption” 1981] called for changes in legislation available to enforcement authorities. Yet subsequent changes in the Meat (Staining and Sterilising) Regulations and the Food Act 1984 failed to effectively control unfit meat.

There were no changes in the existing unsatisfactory system of meat marking. The IEHO recommended a system of roller marking.

It is still not an offence to possess an unauthorised meat inspection stamp.

There has been no change in the reference to ‘for sale’ in the Meat Inspection Regulations. Constant enforcement problems are experienced when the ‘owner’ insists that a carcass is not intended for sale for human consumption. (This will change with the inception of the Food Safety Act).

The BVA has introduced a new form for the Veterinary Certificate for Slaughterhouses Admission for Sick and Injured Animals, yet there is no legal requirement for proper documentation, and vets may continue to submit ‘back of the cigarette packet’ certificates. There are still instances where vets certify dead animals for admission to a slaughterhouse, although this is illegal.

There are no inspection requirements for knackers’ yards, which may be adjacent to slaughterhouses and which should be under similar control.

Knacker activities at unfit meat places such as zoos and hunt kennels are still outside the scope of licensing requirements.

There are no requirements for the labelling of boxed meat at the wholesale stage despite stringent controls at the later, retail stage.’

¹⁰⁰ M43 tab 8

¹⁰¹ M43 tab8

62. On 29 October 1990, a meeting in MAFF was held to discuss the disposal of animal waste. It was attended by the Permanent Secretary, Mr Lawrence, Mr Capstick, Mr Baker, Mr Maslin and Mr Davis.¹⁰² The meeting discussed EC proposals regarding the knacker industry, the fall off in knacker trade and the disposal of specified offal. The note of the meeting recorded that, in respect of the disposal of specified offal, the Ministry had received no indications of any problems from abattoirs or knackers, nor had any problems been observed by MAFF staff in domestic or export-approved slaughterhouses. The Permanent Secretary asked whether the Ministry should not carry out spot checks of slaughterhouses to see how this material was being processed, so that Ministers, if asked, could say that they were satisfied that none of it was going into animal feed. It was noted that renderers and knackeries were registered with the Ministry and received 20 days' inspection a year from veterinary and animal health officers for the purposes of salmonella control. However, the officers had no instructions to examine the way in which specified offals were being processed. The Permanent Secretary asked Mr Lawrence to consider whether the remit of MAFF officers enforcing the Protein Processing Regulations in rendering plants should be extended to cover the inspection of specified offals and whether this remit should also be extended to cover knackeries.

63. In their meeting on 1 November 1990, SEAC considered a paper prepared by MAFF on slaughterhouse practices. In its final form, the paper contained sections on carcase splitting, mechanically recovered meat, the use of pithing rods and possible research related to slaughterhouse practices. In an introductory section, the paper made the following points:¹⁰³

'Most of the offals covered by the ban can readily be removed in the slaughtering and dressing process. However there is at least the theoretical possibility that some slaughtering practices could involve contact between material for human consumption and material covered by the Regulations, notably spinal cord and some nervous tissue. It is important to bear in mind that, on the scrapie analogy, neuroinvasion is not likely to occur until about half way through the incubation process. Thus the risk that these tissues will be infected is much less in animals killed for prime beef at about two years old than in cull cows. Furthermore, assuming that BSE pathogenesis in cattle is like that of scrapie in mice, peripheral efferents are unlikely to be infected until clinical signs were visible.'

64. With regard to carcase splitting, the paper explained that it was normal for all bovine carcasses to be split, apart from those of calves up to the age of six months, and that this was a requirement of EC rules governing the intra-Community trade in meat. The paper also explained that:¹⁰⁴

¹⁰² YB90/11.2/1.1

¹⁰³ SEAC 6/1 para.3

¹⁰⁴ SEAC 6/1 para. 6

‘The spinal cord will inevitably receive some damage during this operation, although it is often surprisingly intact.’

65. The question of contamination of the carcass with spinal cord material was also addressed in the paper. The following comments were made:¹⁰⁵

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

66. On the possibility of sucking out the cord from the intact carcass, the paper said that this was unlikely to be practicable, as the shape of the carcass and the spinal canal and the attachments of the cord would all act against such a method.¹⁰⁶ It was pointed out that this and other possible methods of reducing the risk of spinal cord contaminating material used for human consumption were not in commercial use, and that some research and development would be required to determine their practicability and the extent to which they would in practice reduce such a risk.

67. In the section specifically on mechanically recovered meat (“MRM”), the paper explained that there was currently no specific UK or EC legislation in force to regulate the use of MRM.¹⁰⁷ However, it was explained that by virtue of the Meat Products and Spreadable Fish Products Regulations 1984, MRM could not be used in uncooked meat products if it was obtained from certain specified parts of the carcass, including (amongst other organs and parts) brains, spleen, spinal cord and large and small intestines. Reference was also made to the Bovine Offal (Prohibition) Regulations 1989, which prohibited SBO from all human food, and also to EC rules requiring that all visible lymphatic and nervous tissue be removed in the normal cutting process.

68. The paper also pointed out that few meat products containing MRM were labelled as such and that the legal obligation to do so was disputed by the industry.¹⁰⁸ SEAC was informed that MAFF’s Food Science Division was

¹⁰⁵ SEAC 6/1 para. 8

¹⁰⁶ SEAC 6/1 para. 9(a)

¹⁰⁷ SEAC 6/1 para. 14

¹⁰⁸ SEAC 6/1 para. 15

embarking on a project to develop a method to detect the presence of MRM in meat products.¹⁰⁹

69. The paper then considered the implications regarding BSE. It was pointed out that the vertebral column of bovine carcasses, excluding the spinal cord, could be used in the manufacture of MRM. The paper continued as follows:¹¹⁰

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

- (a) small pieces of spinal cord inadvertently remaining in the vertebral column;
- (b) contamination from carcass splitting...; or
- (c) the failure to remove nerves from between the vertebrae.

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

70. In the section on possible research, the paper indicated a number of areas in which research and development could be useful.¹¹¹ These included:

- (i.) bioassay of MRM or potentially contaminated tissue from affected animals;
- (ii.) the quantification of the extent of any residue of CNS tissue left with the carcass when the cutting process was complete;
- (iii.) assessment of possible alternative methods of removing the spinal cord or cutting the carcass; and
- (iv.) methods of detection of CNS in MRM, and then determination of the presence of CNS tissue in MRM.

71. SEAC considered the paper provided by MAFF at its meeting of 1 November 1990. Under the heading, ‘Slaughterhouse Practices’, the minutes of the meeting record the following:¹¹²

¹⁰⁹ SEAC 6/1 para. 19

¹¹⁰ SEAC 6/1 paras. 23-24

¹¹¹ SEAC 6/1 para 28

¹¹² YB/90/11.01/2.6

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

72. On 8 November 1990, Mr Meldrum sent a minute to Mr Baker, stating that he wished to consider issuing advice to local authorities on checking protein processing plants on the disposal of SBOs as soon as possible, that DVOs should be contacted to ask them to ensure that slaughterhouses in their area were complying with the SBO regulations, and to ensure that VOs and AHOs visiting processing plants were checking on compliance with the SBO regulations.¹¹³ The minute was copied to Mrs Attridge, Mr Crawford, Mrs Brown and Mr Lawson. Mr Meldrum asked Mr Baker to arrange for the necessary instructions to be issued as soon as possible.
73. On 9 November 1990, a meeting took place to discuss the issue of disposal of animal waste.¹¹⁴ It was chaired by Mr Meldrum and attended by MAFF personnel and representatives from DANI and DAFS (see minute dated 19 November 1990 prepared by Mr Maslin). There was some discussion at the meeting about how SBOs were being dealt with by the renderers. Other than the issue of costs, there were no reports of slaughterhouses having major problems in disposing of SBOs. In relation to abattoir waste it was agreed that changes in legislation were not necessary at the time. It was however agreed that SVS field staff should visit rendering plants as soon as possible to check on the handling of SBOs, followed by routine monthly visits. The possibility of the marking of SBOs was discussed. It was agreed that a simple, cheap marker or test that could detect a dye in meat and bone meal was to be pursued with CVL by Mr Lawrence and Mr Taylor. The CVO was concerned that the SBO order allowed those from fallen animals to go into meat and bonemeal for animal feed and asked that an amendment be made quickly. Mr Lawson agreed to discuss hold ups in the Legal Department with Mrs Attridge.
74. A telex was issued by Mr Baker on 12 November 1990 to all DVOs in England, Wales and Scotland, instructing them to carry out monthly visits to rendering plants.¹¹⁵ The telex asked that arrangements be made to establish monthly visits to rendering plants in order to establish:
- (i.) awareness of BSE legislation in terms of specified offals;
 - (ii.) how specified offals were identified;
 - (iii.) how specified offals were kept separate;

¹¹³ YB 90/11.08/9.1

¹¹⁴ YB 90/11.19/4.1-4.3

¹¹⁵ YB90/11.12/6.1

- (iv.) how specified offals were processed and kept separate from other material during processing; and
- (v.) how processed material resulting from specified offals was disposed of.

75. In respect of slaughterhouses, Mr Baker's telex read as follows:¹¹⁶

'Specified Offals in Slaughterhouses

'In addition, we would like to know how slaughterhouses are handling specified offals. Unless the information is available from a recent visit a visit by a SAHO/AHO should be arranged. A return - to Mr S C Hutchins, Tolworth Tower - on this subject is required by 17 December 1990.'

76. On 20 November 1990, Mr Webster, a veterinary officer in the Leeds area, wrote to a slaughterhouse which he had recently visited regarding deficiencies noted during his inspection.¹¹⁷ Amongst those deficiencies Mr Webster had noted the incomplete removal of spinal cord seen in the sides of two carcasses, which had been inspected and passed as fit.

77. On 23 November 1990, Mr Lawrence circulated a minute setting out various suggestions for establishing a policing system to monitor the SBO controls.¹¹⁸ The minute was copied to Mr Meldrum, Mrs Attridge, Mr Crawford, Mr Lowson and others. Mr Lawrence said, 'I hear on the grapevine that some specified material destined for renderers is not stained when it leaves the abattoirs'.¹¹⁹ His suggestions included monthly checks at rendering plants and checks at slaughterhouses for evidence that SBOs being collected by renderers had been stained before leaving the slaughterhouse. As a possible additional check, Mr Lawrence suggested using calculations of the weight of SBOs that should arise to follow them through the production process. Renderers would have to account for any discrepancies in the amount of material received and processed and the amount of meat and bone meal produced. He also suggested random spot checks to supplement the annual visits of the SVS to knackers' yards. He added that the possibility of using a marker for SBOs was being pursued by Mr K Taylor and Mr Lawrence with Mr Shaw at CVL.

78. On 26 November 1990, Mr Hutchins responded to Mr Lawrence's suggestion to use weight calculations as a means of checking on the disposal of SBOs.¹²⁰ Mr Hutchins pointed out difficulties in implementing this idea because of variable factors, such as the differing contents in SBO material collected from slaughterhouses, the presence of considerable amounts of water, problems of mixing loads and variations in weight

¹¹⁶ YB90/11.12/6.1

¹¹⁷ YB90/11.20/1.1-1.9

¹¹⁸ YB90/11.23/1.1-1.4

¹¹⁹ YB90/11.23/1.1 at para 3

¹²⁰ YB90/11.26/3.1

during transporting due to fluid losses etc. In addition, he queried whether there would be right of access to records of slaughterhouses and other premises for the purposes of making the necessary calculations. Mr Hutchins' minute was copied to the CVO, Mrs Attridge, Mr Crawford, Mr Lowson and others.

79. Mr Meldrum commented on Mr Lawrence's minute of 23 November 1990 in his minute to Mr Crawford of 28 November 1990.¹²¹ The minute was copied to Mrs Attridge and Mrs K J Brown and Messrs Baker, Taylor, Lowson and Lawrence. Mr Meldrum asked:

'I would be grateful for advice from Mr Crawford on any increase in SVS visits to knackers yards. I certainly support the suggestion that we should increase our visits and, in addition, persuade local authorities to do likewise.

On hunt kennels I was under the impression that they were being visited on a routine basis by VOs from the SVS. Could Mr Crawford once again advise.'

80. Mr Crawford responded on 30 November 1990:¹²²

'On 29 August, I asked for returns on the development of problems in relation to the disposal of material from knackers and hunt kennels. On 15 October the instructions were firmed up and the return is now required, via Regions, on a monthly basis. In addition to the knackers and hunt kennels, the staff are also keeping under review the question of the removal of dead stock from farms.

Therefore, in answer to your questions, the knackers and hunt kennels are now receiving a much higher level of input from the SVS. I am also asking RVOs to try to obtain an increased involvement by Local Authorities.'

81. On 18 December 1990, Mr Lawrence minuted Mr Hutchins concerning allegations against two slaughterhouses of contravention of the SBO regulations.¹²³ The particular nature of the allegations is unclear.

82. On the same day, 18 December 1990, Mr Crawford sent a telex to all territorial RVOs (England, Scotland and Wales) regarding the inspection of knackereries, hunt kennels and rendering plants.¹²⁴ Mr Crawford referred to the numerous requests that had gone out to the field requiring staff to submit returns on various aspects of the rendering and knackery operations. In order to clarify the position, Mr Crawford said that he would hope to bring together the content of those requests in one circular letter in

¹²¹ YB90/11.28/2.1

¹²² YB90/11.30/1.1

¹²³ YB 91/1.23/5.1

¹²⁴ YB90/12.18/2.1

respect of hunt kennels and knackeries.¹²⁵ Mr Crawford's telex stated that these establishments should continue to receive a monthly visit by veterinary or technical staff to report on the removal of dead stock from farms. At these visits staff were also required to review the procedures for the disposal of waste material generally and of specified offals in particular. In respect of the rendering plants, Mr Crawford stated a monthly visit, preferably by a SAHO, should be made to rendering plants to obtain the following information:¹²⁶

- (a) how the specified offals were identified;
- (b) how the specified offals were handled;
- (c) how the specified offals were kept separate from other materials;
- (d) how the specified offals were processed and kept separate from other material during processing; and
- (e) how the processed material resulting from specified offal was disposed of.

Returns were to be submitted to Mr Hutchins at Tolworth.

83. Also on 18 December 1990, Mr Lawson minuted Mr Lebrecht with a background note for the Ministers' meeting the following day regarding disposal of fallen animals and animal waste.¹²⁷ In his summary, Mr Lawson stated that it was not easy to quantify the extent to which farmers and others were by-passing conventional means of carcase disposal, but there was clearly a substantial incentive for them to do so. However, Mr Lawson stated that there was no justification for financial aids to the knackers' or renderers' running costs.

Events in 1991

84. In a letter dated 'January 1991' from Mr Lawrence to Mr Ian Anderson of DAFS, Mr Lawrence referred to difficulties that had been encountered by a rendering firm, Dundas Brothers Ltd, in ensuring that SBOs were kept out of the animal food chain.¹²⁸
85. On 9 January 1991, the Senior Public Health Inspector of Wiltshire County Council wrote to Mr Maslin regarding problems which had emerged in respect of the Bovine Spongiform Encephalopathy (No.2) Amendment Order 1990.¹²⁹ The letter drew attention to the error in the drafting of the Order which caused fallen animals to be effectively exempt from the SBO

¹²⁵ YB90/12.18/2.1

¹²⁶ YB90/12.18/2.1 at para 1

¹²⁷ YB90/12.18/3.1

¹²⁸ YB91/01.00/2.1

¹²⁹ YB91/01.09/1.1

regulations and allowed the specified offals from fallen animals to be processed for inclusion in animal feeds.

86. The results of the first set of returns from rendering plants were collated by Mr Hutchins in his minute of 12 January 1991 to Mr Crawford.¹³⁰ The minute recorded that there were no significant problems involved in the handling of SBO at rendering plants, and that general awareness of the legislation was good. It was suggested that future returns should give details of the cleaning of shared processing equipment (namely, equipment that is used in the processing of both SBO material and other waste) and of the disposal of tallow. The minute was copied to Mr Lawson and Mrs Attridge.
87. At the same time as the programme of SVS visits to rendering plants and collection centres was established, SVS staff were asked to start a¹³¹ programme of monthly visits to knackers' yards and hunt kennels. The summary of the results of those visits was collated by Mr Hutchins in his minute of 17 January 1991.¹³² It was noted that hunt kennels were increasingly taking on the role of knackers, and that the potential for knackers to charge for collection might encourage farmers to dispose of carcasses of sick animals to those involved in the 'unfit meat trade.' Some field staff had expressed concern about the level of input required for the monthly returns, and Mr Hutchins asked that consideration be given to reducing the frequency of visits to once every three months.
88. On 18 January 1991, Mr Crawford wrote to all RVOs regarding the results of the survey of the handling of SBOs in slaughterhouses which was made pursuant to Mr Baker's telex of 12 November 1990.¹³³ Mr Crawford stated that the survey was of limited value owing to the variation in format and detail of the 36 returns received. The minute noted that proformas had been prepared, so that future returns would be standardised. The minute also asked that the returns from individual plants should not be sent to Mr Hutchins, but that he (Mr Hutchins) should receive instead a summary of the returns in each Division, prepared by the DVO. The proforma asked whether brains were removed on site and 'whether meat used for human consumption is at risk of contamination'.¹³⁴ It also asked whether intact skulls were sent to boning plants and whether SBOs were sterilised on site and further, about movement controls and the nature of any contraventions found. Mr Crawford asked for the forms to be completed and returned by 25 February 1991.

¹³⁰ YB91/1.12/1.1

¹³¹ YB91/1.17/1.1

¹³² YB91/01.17/1.1

¹³³ YB91/1.18/1.1

¹³⁴ YB91/01.18/1.2-1.4

89. On 21 January 1991 Mr Meldrum minuted Mr Crawford regarding Mr Hutchins' 17 January summary of returns on the handling of specified offals at rendering plants.¹³⁵ He stated:

'2. It is now important that we feed back information and advice to our staff arising from this return to ensure that we have uniformity of application of the relevant rules.

'3. In particular, we need to cover the possibility of leakage from one bay to another (although this a comparatively minor problem) and the importance of ensuring that there is no deliberate mixing of the two types of offal.

'4. We need further information on the time/temperature combination for all premises where the SBOs are being processed. In the case of premises where the system is not "cleaned" we need further details and advice if necessary to the operator through the DVO.

'5. We also need to know how tallow is being used.

'6. On the general issue raised by Mr Hutchins I take the view that we do need to repeat visits and returns in view of the importance of this issue.'

90. On the same day Mr Meldrum minuted Mr Crawford about Mr Hutchins' 17 January summary of returns from knacker yards and hunt kennels.¹³⁶ Mr Meldrum made the following comments:

'1. You will have seen Mr Hutchins' minute of 17 January which makes somewhat disturbing reading.

'2. It is essential that this work continues, that the present programme of visits is maintained and that reports are submitted to Head Office regularly. It indicates that our staff are not aware of the importance of this work if they are suggesting that the visits should suffice every 3 months.

...

'7. Once again you will have to ensure that there is feed back to our staff on the problems that have been identified in the returns, not least to guarantee that all returns are dispatched as requested.'

91. Also on 21 January, Mr Crawford minuted Mr Hutchins regarding hunt kennels and knackereries.¹³⁷ He stated:

'You have expressed concern that some animals which may previously have been sent to knackereries are now going to abattoirs. I should be grateful if Meat Hygiene Section, through RMHAs, would ask meat VOs to be vigilant and report back if they find evidence that there is an increase in unfit animals reaching the abattoirs.'

¹³⁵ YB91/1.21/4.1

¹³⁶ YB91/1.21/1.1

¹³⁷ YB91/1.21/2.1

92. On 23 January 1991, Mr Hutchins replied to Mr Lawrence's minute of 18 December 1990 and said that the SVO returns for those two plants alleged to have contravened the SBO regulations showed no evidence of wrongdoing.¹³⁸ Mr Hutchins informed Mr Lawrence that he had written to the relevant RMHA in each case, to draw the allegations to their attention. However, he suggested that the chances of coming across a problem by chance even at an unannounced visit 'are remote'.¹³⁹ The minute was copied to Mr Baker.
93. On 13 February 1991, Meat Hygiene Division sent out an Animal Health Circular (91/9) to all veterinary staff regarding returns on procedures at rendering plants and collecting centres.¹⁴⁰ The circular enclosed a copy of a pro forma return on the handling of specified bovine offals at rendering plants and collecting centres. The circular also confirmed that visits should be conducted every two months and that the additional requirements did not alter the general requirement for monthly returns to be made on knackers' yards and hunt kennels.
94. On 21 February 1991, Mr Hutchins submitted a summary of the returns from rendering plants to Mr Crawford for the period ending in the second week of February.¹⁴¹ The summary stated that there had been very few changes in the returns since those submitted for January. Awareness of the regulations remained high and separation of SBO was good. The previously reported problem of leakage from one bay to another was not recorded amongst the latest returns.
95. On 5 March 1991, Mr Lawrence minuted Mr Crawford, with copies to Mr Meldrum, Mr K Taylor, Mr K Baker, Mr Lawson, Mr D Taylor, Mr Hutchinson, Mr Maslin and Dr Matthews, attaching a note alleging wrongdoing in respect of SBO in certain abattoirs.¹⁴² Mr Lawrence explained that the problem was that if the reports are followed up by a VO or AHO, either by telephone or by a visit, there would simply be a flat denial. He added that 'short of catching them in the act it is a pretty hopeless task'. Mr Lawrence made the following suggestion:¹⁴³

'I still maintain that in certain cases the completion of the questionnaire may not be enough. I have suggested in the past that a more scientific approach would be to track the movement of raw material from abattoirs right through to the disposal of meat and bonemeal. I know that such an exercise is with difficulties (not least in trying to correlate the weight of the raw material to the finished product – as I am sure Steve Hutchins will remind me!) but the plain fact is that regular visits and the completion of the questionnaire won't deter abuse. And persistent reports suggest that it

¹³⁸ YB91/1.23/5.1

¹³⁹ YB91/1.23/5.1

¹⁴⁰ YB91/2.13/1.1

¹⁴¹ YB91/2.21/2.1

¹⁴² YB91/3.5/1.1

¹⁴³ YB91/3.07/5.1

is going on... Is a possible approach to look at the records at rendering plants – perhaps during the PAPO visits or during visits to check on SBOs? At least if the news got round that MAFF were conducting more ‘in depth’ checks it might deter some.’

96. Mr Crawford responded to Mr Lawrence on 7 March 1991.¹⁴⁴ He stated:

‘I appreciate that confidentiality of the source of the information probably has to be observed but I would like to have a little more information. It is possible that if we know how this information was obtained it may give us a lead on how to find the evidence. The processors mentioned are reasonably widely distributed and there must therefore be a question of how one informant gained all of this information. I would like to discuss this with you in a little more detail.

Although I agree that it will be difficult to catch these operators in the act, I would like to consider in more depth what action we can take and will take advice from colleagues over the next few days. I will then agree a line of action with RVOs when they are in Tolworth next week.’

97. On 5 April 1991, Mr Hutchins produced a summary of returns from slaughterhouses.¹⁴⁵ The returns showed that there were two main methods of removing brains from skulls:

- (i.) removal of back or top of skull (without damaging brain); and
- (ii.) splitting of the skull (brain being cut in two)

98. Various methods were used, including saws, axes and cleavers. One plant was reported to be using an air hose, and one a hydraulic cleaver and vacuum removal system.

99. The summary further stated that there was little or no evidence of meat intended for human consumption being exposed to risk of contamination by brain material. Head meat was generally removed prior to brain removal. Heads were opened in parts of the premises where no meat for human consumption was present. In the few cases where this was not the case, the undesirability of the practices was discussed with operators. Furthermore, in those few plants where contraventions were reported, contact had been made with the relevant local authorities to ensure that compliance would be achieved.¹⁴⁶

100. The summary concluded that the overall picture appeared ‘quite encouraging. Brain removal does not appear to be causing any significant problems and there is generally a high degree of compliance with the legislation.’¹⁴⁷

¹⁴⁴ YB 91/03.07/5.1

¹⁴⁵ YB 91/4.5/5.1-5.2

¹⁴⁶ YB91/4.5/5.1

¹⁴⁷ YB91/4.5/5.1

101. The appendix to the summary provided the following breakdown of information received:¹⁴⁸

‘1. Number of slaughterhouses	570
‘2. Number of slaughterhouses where brains removed on site	75 (13%)
‘3. Number of slaughterhouses sending intact skulls to specialist boning plants	256 (45%)
‘4. Number of slaughterhouses which sterilise SBOs on site	11 (2%)
‘5. Number of slaughterhouses where unsterilised SBOs were not stained pre-despatch	13 (2%)
‘6. Number of slaughterhouses where movement permits were not obtained pre-despatch	13 (2%)’

102. On 8 April 1991, Mr Crawford minuted Mr Hutchins regarding the summary of returns from slaughterhouses contained in the minute of 5 April.¹⁴⁹ Mr Crawford said that he was interested to note the comment about one slaughterhouse having a hydraulic cleaver and vacuum removal system. Mr Crawford requested further information. He also asked that Mr Hutchins follow up cases where unsterilised SBOs were not stained pre-despatch, and where movement permits were not being obtained. He further asked that staff should confirm whether their approaches to local authorities had the effect of correcting the contraventions.

103. On 15 April 1991, Mr Hutchins wrote letters to various Animal Health Offices noting that deficiencies in ‘certain aspects of the handling of specified bovine offals at some of the premises’ had been reported.¹⁵⁰ He asked if the Animal Health Offices could ‘confirm that the steps taken to inform the local authority and plant management of these deficiencies have had the effect of correcting the contraventions.’¹⁵¹

104. On 17 April 1991, Mr Crawford wrote to all territorial RVOs (England, Scotland and Wales) regarding the survey of compliance with the SBO regulations in slaughterhouses.¹⁵² Mr Crawford stated that the second and fuller return from slaughterhouses had now been reviewed, and that there were still a significant number of premises where the regulations were not

¹⁴⁸ YB91/4.5/5.2

¹⁴⁹ YB81/4.8/2.1

¹⁵⁰ M42 tab 8

¹⁵¹ M42 tab 8

¹⁵² YB91/4.17/8.1

being observed, 'to a greater or lesser extent'. Mr Hutchins had asked those DVOs, in whose divisions the irregularities were recorded, to follow up with local authorities and report on the outcome of their action. Mr Crawford went on to say:¹⁵³

'...in view of the deficiencies noted, I feel that we can not let the matter drop without further action. To do so would be open to criticism. I would therefore ask RVOs to request their DVOs to organise a further round of visits, to all abattoirs which handle bovines, and to report on how the specified offals are being handled. The returns should be sent to Steve Hutchins, in the previously agreed format, to arrive not later than the end of May.'

105. On 24 April 1991, Mr Hutchins minuted Mr Crawford with a summary of returns from knackers' yards and hunt kennels. The position in respect of charges had not altered. The number of carcasses being submitted to knackers continued to fall. The trend for hunt kennels to act as knackereries was less of a feature than in earlier reports. Dumping of carcasses outside knackereries and hunt kennels remained a relatively frequently reported problem. The number of reports referring to carcasses being left unburied on farms or at road sites had increased sharply in some areas. Compliance with the requirements of the Meat (Sterilisation and Staining) Regulations 1982 was recorded as being generally satisfactory. Occasional problems with the disposal of unsterilised waste were noted and were promptly taken up with operators and local authorities.

106. In May DVOs began collecting information for the second survey of SBO controls in slaughterhouses. DVO, Trowbridge, A G McFarlane, reported to DRVO, Bristol, Mr Kirkham, that he had encountered resistance from an EHO:¹⁵⁴

'At a recent very tight-lipped exchange about other matters with North Wilts Environmental Health Officer, Mr Bob Barrett, I was advised that as the [SBO] Regulations are made under the Food Act 1984 they are enforced by the District Authority and the Ministry of Agriculture have no statutory responsibility for observation or enforcement. I was asked why the State Veterinary Service felt they had to make approach to the slaughterhouses to review compliance rather than making direct contact with Environmental Health Officers concerned to obtain the information'.

107. In his summary of 7 May 1991 of the returns from rendering plants and collection centres, Mr Hutchins noted that the quality of information had improved since the introduction of proformas.¹⁵⁵ Awareness of the legislation remained high. Identification of SBO material was generally achieved by the use of separate bins but the staining of SBOs at abattoirs was also used as a means of identification. Separation of SBO material was generally good, but the possibility of leakage across bays was noted.

¹⁵³ YB91/4.17/8.1

¹⁵⁴ YB 91/05.23/4.1

¹⁵⁵ YB 91/5.7/2.1

In one plant, it was noted that the same tractor bucket was being used for SBO and non-SBO material. Considerable variation was noted in the processing techniques being used to render the SBO. The summary was sent to Mr Crawford and was copied to Mr Meldrum, Mrs Attridge, Mr Lowson and others.

108. Mr Hutchins' summary went on to report that in plants where both SBOs and other offals were handled, cleaning procedures varied widely. In some, careful consideration was given to the issue of cross-contamination; in others the issue did not appear to have been addressed at all. Various cleaning procedures identified included the following:¹⁵⁶
- (i) no cleaning;
 - (ii) physical sweeping or raking
 - (iii) steam cleaning and/or disinfection; and
 - (iv) treating the next load after an SBO load was also treated as being of SBO status.
109. The summary described the uses of tallow which included edible tallow, animal feed, technical grade tallow, soap, poultry feed, fuel and sale to brokers. There was little evidence that tallow from SBO was being treated differently from non-SBO tallow.
110. The returns from collection centres indicated that awareness of the regulations was good. Identification and separation was reported as being 'generally satisfactory'.¹⁵⁷ Occasional incidents were reported of indirect contact between SBOs and other offals, and advice was reported to have been given in these instances.
111. In June 1991 MAFF and DH published a joint report entitled 'Review of Fresh Meat Hygiene Enforcement in Great Britain.'¹⁵⁸ The report concerned a study and analysis of alternative management and enforcement structures in the area of meat hygiene. Under the sub-heading 'Standards and motivation for improvements in plants' the report states:¹⁵⁹
- 'SVS monitoring shows that there is room for improvement in standards, particularly in domestic plants, in Great Britain.'
112. On 3 June 1991, Mr Hutchins wrote to Mr Crawford reporting that further inquiries had been made and 'it is now stated that no SBO-derived tallow is used in the preparation of human foodstuffs (apparently an error in the original report)'.¹⁶⁰ Mr Hutchins went on to say that it did appear that SBO derived tallow was being used in animal feeds in some instances.

¹⁵⁶ YB91/5.7/2.2

¹⁵⁷ YB91/5.7/2.2

¹⁵⁸ M22 Tab 1

¹⁵⁹ M22 Tab 1 page 18

¹⁶⁰ YB 91/6.3/1.1

113. The next summary of returns from abattoirs was produced on 19 June 1991 in a minute from Mr Hutchins to Mr Crawford.¹⁶¹ The survey covered 581 slaughterhouses. Mr Hutchins reported a slight decrease in the number of plants sending heads to specialist boning plants. Concern about the possibility of contamination of meat for human consumption due to the method of brain removal was reported in only 6 plants. It was said that this had been taken up with operators and local authorities. 12 abattoirs were reported to be sterilising SBO on site. In the remainder, 18 plants were identified as failing to stain SBO. 13 sites were failing to obtain local authority movement permits for the removal of SBO. The summary identified that a variety of methods were being used to remove brains from skulls at slaughterhouses. It was noted that where such methods gave rise to concerns about the risk of contamination of meat, the 'undesirability' of those practices had been discussed with local authorities and slaughterhouse operators.
114. On 24 June 1991 Mr Hutchins wrote to Mr Keir (VO at Carlisle Animal Health Office) regarding the failure of the Carlisle Animal Health Office to take action in relation to compliance problems identified in a Carlisle slaughterhouse.¹⁶²
115. On 25 June 1991, Mr Meldrum minuted Mr Hutchins to ask when the amendments to the SBO regulations were coming into effect to ensure that head meat was removed before removal of the brain.¹⁶³ Mr Meldrum expressed concern about information he had received from 'other sources' to the effect that little of the SBOs were being stained in slaughterhouses and asked that further advice be issued to local authorities through DVOs.
116. On the same day (25 June 1991) Mr Hutchins minuted Mr Crawford about the handling of specified offals at rendering plants and collection centres.¹⁶⁴ The report recorded that awareness of BSE legislation remained high, with operators reported to be fully aware of their legal responsibilities. Identification of specified bovine offals was achieved by the use of separate marked bins and containers in most cases. The summary recorded that the staining of SBOs at abattoirs was also used as a means of identification. Separation of specified offals was reported to be generally good, with clear separation being maintained between SBOs and other offals. However, in two premises the possibility was noted of indirect contact via tractor bucket used for both SBOs and other offals. It was recorded that in plants where both SBOs and other offals were handled, 11 used common preheating equipment and nine used common rendering equipment. The cleaning procedures which had been described varied widely from none, through physical sweeping or raking, to steam cleaning and/or disinfection. In a few cases, the next load through the

¹⁶¹ YB91/6.19/3.1

¹⁶² YB 91/06.24/6.1

¹⁶³ YB 91/06.25/4.1

¹⁶⁴ YB91/6.25/3.1

system was also treated as being SBO status and was used to clean out the equipment. In respect of the use of tallow from SBOs, there had been no further development, and although SBO was not reported as being used in human food production, some was used for animal feeds. Fifteen collection centres had been identified, although it was recognised that this may well have represented an underestimate as it appeared likely that the smaller, non-dedicated premises, such as knackers' yards, had not been included under this heading.

117. The summary of 25 June 1991 of returns from SVS visits to knackereries and hunt kennels reflected a similar situation as described in the report of 24 April 1991.¹⁶⁵ Compliance with the Meat (Sterilisation and Staining) Regulations 1982 continued to be described as 'satisfactory' at knackers' yards. However, at hunt kennels the situation was 'less satisfactory' with the same criticisms emerged as set out in the 24 April report. The 25 June summary recorded that there had been no further developments on tallow and that some SBO derived tallow continued to be used in animal feed.
118. On 11 July 1991, Mr Crawford minuted Mr Hutchins regarding recent discussions he had had with Mr Meldrum.¹⁶⁶ Mr Crawford reported that Mr Meldrum had received 'information from a "reliable" source within the rendering industry' that significant quantities of SBOs were not being treated in accordance with the regulations. Mr Crawford asked Mr Hutchins to prepare a draft circular letter to DVOs, with copies to RVOs and RMHAs, asking them to discuss the regulations with their local authorities and to ensure that their staff made the occasional unannounced visit to abattoirs to view the handling of the SBOs.
119. Animal Health Circular ("AHC") 91/61 was circulated on 12 August 1991 to all DVOs in England, Wales and Scotland instructing them to arrange for occasional unannounced visits to be made to slaughterhouses to ensure compliance with the SBO regulations, with follow-up visits where problems were identified.¹⁶⁷ In addition, DVOs were instructed to remind local authorities with red meat slaughterhouses in their districts of the need for their staff to ensure that the regulations were being fully observed. The AHC was also copied to all DRVOs, VOs (Meat Hygiene) and SVOs (RMHA). It stated:

'Although routine reports from Divisions indicate that the handling of specified bovine offals in slaughterhouses is satisfactory, information has been received in Headquarters from sections of the Industry that there are significant shortfalls in compliance with the Regulations. It has been suggested that conditions seen during announced visits may not reflect the day to day situation. In view of the widespread interest in the controls over specified bovine offals, it is essential that the Regulations are seen to be enforced evenly and effectively across the country.....Arrangements should

¹⁶⁵ YB91/6.25/2.1

¹⁶⁶ YB91/7.11/1.1

¹⁶⁷ YB91/8.12/1.1

therefore be made for occasional unannounced visits to abattoirs to ensure compliance with the Regulations.....Any deficiencies ... must be notified in writing to the Local Authority....'

120. On 21 August 1991, a consultation letter was issued to organisations and interested parties regarding to proposed amendments to the SBO Regulations.¹⁶⁸ The letter explained that the proposed amendments were intended to give legislative force to the guidance, issued in June 1990, that meat for human consumption should be recovered from the intact skull before removal of the brain. As an additional precaution, the proposed regulations required that, where the brain was being removed in an abattoir or specialist boning plant, this must take place in an area which is free from any material intended for human consumption. The new regulations would also allow the movement, under permit, of intact bovine heads, once stained, to processors' premises.
121. On 23 August 1991, Mr Simmons (who had succeeded Mr Hutchins as SVO in the Meat Hygiene Veterinary Section with responsibility for red meat premises) minuted Mr Crawford with a summary of returns from knackers' yards and hunt kennels for the period ending in the second week of August 1991.¹⁶⁹ In respect of charges, no significant change was noted from the previous months other than one report from a Gloucester DVO that SBO loads from small through-put premises were being charged at up to £200 per tonne. The figures provided for through-put showed that there had been a decrease compared with the previous month in the figures for all categories including cattle, sheep and goats, pigs and horses. In respect of compliance with the Meat (Sterilisation and Staining) Regulations 1992, reports from most divisions were satisfactory. Where this was not the case staff were liaising with local authority officials to effect a remedy. Some hunt kennels were purchasing raw carcase meat from knackers in contravention of Regulation 12 of the 1990 Regulations; this had been brought to the attention of the relevant local authorities. Reports also indicated a marked reduction in the dumping of fallen stock.
122. On 2 September 1991, Mr Simmons minuted Mr Crawford with the summary of returns from rendering plants and collection centres for the period ending in the second week of August 1991.¹⁷⁰ The report repeated the previous months statement that awareness of BSE legislation remained high in respect of the identification and separation of specified offals. Cleaning procedures continued to vary widely from none, through physical sweeping or raking, to steam cleaning and/or disinfection. Reports on the use of tallow made no mention of their use in animal feedstuffs which had been mentioned in previous reports. Fourteen collection centres had been identified, although, as with previous reports, it was stated that this figure may well have represented an underestimate of the total number of centres being used for collection purposes.

¹⁶⁸ YB91/8.21/1.1

¹⁶⁹ YB91/8.23/1.1

¹⁷⁰ YB91/9.2/2.1

123. On 3 September 1991, Mr Meldrum sent a minute to Mr Crawford.¹⁷¹ He expressed concern about plants where both SBOs and normal offals were being rendered. In particular, he was concerned that in some situations there would be no purging of the system carried out between runs. Mr Meldrum requested that the relevant information be reviewed by Mr Simmons and that draft procedures be prepared for his consideration for the purpose of ensuring that there was no cross-contamination in the processing plants.
124. On 16 October 1991, Mr Simmons minuted Mr Crawford with the results of his review of methods used to prevent cross-contamination between SBO and other material at rendering plants.¹⁷² Mr Simmons stated:¹⁷³
- ‘There is potential for cross-contamination at all stages of the process described...but the risk appears greatest when common equipment is used to prepare the material prior to cooking. Machinery such as macerators and augers have a large number of moving parts and as a consequence they are difficult to clean. In general, attempts are made to clean the equipment before it is used for non SBO material but no plants are reported to dismantle equipment between batches. However, this type of machinery, particularly augers, is prone to ‘dead spots’ in which material accumulates; this can only be removed if it is dismantled prior to thorough cleaning.
- ...
- It is clear that the procedures are not wholly effective in preventing cross-contamination. The amount of infectious agent, if any, reaching susceptible animals through contamination of animal protein feed with SBO will be very small. However, it is important to avoid complacency; the risk may be impossible to quantify but that does not justify abandoning attempts to reduce it. Nevertheless, it is important that the risk is kept in perspective.’
125. Mr Simmons argued against the introduction of legislative controls to ensure separation between SBO and other material of rendering plants and favoured the issue of a code of practice to the rendering industry, including advice on methods and practices to reduce the risk of animal protein being contaminated with SBO.
126. On 12 November 1991, Mr Simmons minuted Mr Crawford with a summary of returns from knackers’ yards and hunt kennels.¹⁷⁴ The situation was largely unchanged from the previous month. However, Mr Simmons stated that one or two local authorities seemed reluctant to devote any effort to resolving consistent non compliance. This point was picked up by Mr Meldrum in a minute of 14 November 1991 to Mr

¹⁷¹ YB91/9.3/3.1

¹⁷² YB91/10.16/1.1-1.9

¹⁷³ YB91/10.16/1.3

¹⁷⁴ YB91/11.12/1.1

Crawford, in which he asked for the position to be rectified through the appropriate RVO.¹⁷⁵

127. On 4 December 1991, Mr Simmons minuted Mr Crawford with a summary of returns from knackers' yards and hunt kennels.¹⁷⁶ With regard to through-put, the figures showed a sustained fall in through-put in Scotland. However, the figures also indicated an increase in through-put of adult cattle and calf carcasses in England and Wales. No significant changes were reported in charges for the collection of carcasses. In respect of disposal and dumping of fallen stock, a slight increase in number of sheep carcasses left unburied was reported. There were also reports of increasing use of burial pits; scepticism was expressed as to whether they were correctly sited. The licensing and cost of incinerator installation meant that plans were being shelved in many cases. Mr Simmons noted that 'despite these adverse comments the tone of reports suggests that the majority of farmers are experiencing little problem with the disposal of fallen stock'. In contrast with the previous return on slaughterhouses of 19 June 1991, the 4 December 1991 report did not address the issue of proper separation and staining of waste and SBO material respectively.
128. A summary of results of MAFF monitoring of red meat and poultry meat premises in 1990/91 showed that of the 89 red meat premises visited, only 37 had satisfactory hygiene.¹⁷⁷ The table of results compared the figures with those for 1989-90 when 78 plants were visited and 57 had satisfactory hygiene standards; and in 1988-89 96 plants were visited and 60 had satisfactory hygiene standards. A foot note to the entry on red meat premises stated:

'Method of assessing domestic plants has increasingly taken account of impending single market requirements. The % drop in satisfactory domestic plants reflects, to a certain extent, this change to a stricter assessment. The sharp drop in standards in 1990-91 may also be due to lack of commitment by plants who think that they will not continue in business after 1992. However, the standard in domestic plants has consistently been lower overall.'

CLARIFICATION: The document from which this is quoted is an annex to a larger document. However, the Inquiry has been unable to locate this larger document. It is also unclear in what circumstances the document was produced.

Events in 1992

129. On 3 January 1992, Mr Metcalfe of Fats and Proteins (UK) Limited, a rendering company, wrote to Mr Sadler of UKRA regarding MAFF's draft

¹⁷⁵ YB91/11.14/4.1

¹⁷⁶ YB91/12.04/1.1

¹⁷⁷ YB91/00.00/2.1

code of practice on the handling of SBOs.¹⁷⁸ Mr Metcalfe made the following remarks:¹⁷⁹

‘How we as renderers can be expected to monitor both unstained and often very poorly segregated material defies me. We are expected to be able to judge every set of tonsils or intestines, etc are from an animal of 5 or 7 months of age and then take the appropriate action. We provide well identifiable containers and still the abattoirs can get the material mixed up.

The whole question of SBOs must also bring into question the actual meat that we eat. We know the extreme difficulty in removing totally the spinal cord. the juices of which does contaminate the carcass while being split. The removal of other organs is equally difficult to achieve 100% effectively and assured ‘best effort’ is accepted by the enforcing bodies. If there is an element of risk from unsuspected animals, the practical way is to segregate the brain and for this to be disposed of and the responsibility to be the local authority or the relevant regulatory bodies under supervision of the meat inspector to ensure the brain is indeed handled correctly and disposed of via the nearest incinerator or supervised method.

I in no way wish to bring the above back into the public domain but the whole exercise on non suspected [sic] animals would appear to me to have been none other than a systematic exercise to appease the public. I feel it is now high time after three years to get the whole issue put straight in light of the evidence to date which I am satisfied in my opinion would be well accepted and save costs, also ensure maximise safety.’

Clarification: the copy of the letter reproduced in the Inquiry’s yearbooks is not entirely legible.

130. On 9 January 1992, Mr Sadler wrote to Mr Meldrum attaching a copy of the letter that he had received from Mr Metcalfe.¹⁸⁰ Mr Sadler asked Mr Meldrum to prepare his own comments in response to the points in Mr Metcalfe’s letter and to provide these to UKRA in writing prior to their forthcoming Technical Committee meeting on 30 January 1992.
131. On 13 January 1992 Mr Simmons reported on returns from knackers and hunt kennels. The report stated that a diminishing number of reports of non compliance were received every month in respect of the Meat (Sterilisation and Staining) Regulations. In the main, these were resolved after reminders to the local authorities. SVS staff in association with local authorities were actively engaged in resolving the few outstanding problems.¹⁸¹

¹⁷⁸ YB92/1.3/1.1

¹⁷⁹ YB92/1.3/1.2

¹⁸⁰ YB92/1.9/1.1, YB92/1.3/1.1

¹⁸¹ YB92/1.13/3.1-3.2

132. On 27 January 1992 Mr Meldrum responded to Mr Sadler and briefly explained the background to the introduction of the SBO ban and the basis for the tissues included in the ban.¹⁸²
133. On 2 March 1992, Mr Maslin wrote to Mr Sadler of UKRA regarding the code of practice produced by MAFF on the handling of SBO in rendering plants.¹⁸³ Mr Maslin enclosed an amended code of practice which contained some minor changes to the version provided by Mr Saddler under cover of his letter of 12 February. Mr Maslin explained that the Department would not be considering codes for other sectors ‘at the moment’ but that this did not ‘mean that the legislation on SBO is being less strictly applied’.
134. On 5 March 1992, Mr Simmons minuted Mr Crawford with the summary of returns from knackers’ yards and hunt kennels.¹⁸⁴ Mr Simmons concluded that there was little of significance to report other than a slight increase in carcase dumping and a continuing reduction in the costs of collection of ‘other wastes’. In respect of the Meat (Sterilisation and Staining) Regulations 1982 no significant problems had been reported. Mr Simmons explained that, as in previous reports where deficiencies were identified, these were brought to the attention of the local authority.
135. On 12 March 1992 the Bovine Offal (Prohibition) (Amendment) Regulations 1992 came into effect, amending the SBO Regulations and banning the use of head meat after opening of the skull and requiring removal of the brain only in areas free at all times from any food intended for human consumption.¹⁸⁵
136. On 10 April 1992, Mr Simmons reported on returns from SVS visits to renderers, noting that:¹⁸⁶
- ‘the situation remains relatively unchanged from previous summary reports. Handling and processing appears to be carried out responsibly and separation of SBO from other material is satisfactory. However, as pointed out in the review procedures vary considerably from plant to plant. The code of practice on the handling of specified bovine offal at rendering plants, recently agreed by the UKRA, should clarify our policy with respect to the separation of the material in these plants, and should, where appropriate, facilitate exports of meat and bone meal where this is processed at the same plant.’
137. The Code of Practice for the Handling of Specified Bovine Offals (SBO) at Rendering Plants was issued by MAFF in July 1992.¹⁸⁷ The Code stated that:

¹⁸² YB 92/01.27/4.1-4.2.

¹⁸³ YB92/3.2/1.1

¹⁸⁴ YB92/3.5/4.1

¹⁸⁵ L2 Tab7A

¹⁸⁶ YB 92/4.10/5.1

‘...renderers have a responsibility to ensure that their procedures for transportation, storage, handling and processing of SBO are correctly undertaken and thus minimise the risk of possible co-minglement with their other productions of animal proteins, particularly where both categories of material are processed on the same site...The purpose of this ‘Code of Practice’ is therefore both to provide guidance and also set out acceptable methods that will best minimise any risk’.

138. The Code advised that the best method of avoiding comminglement was by use of separate facilities for the processing of SBO material. However, it was recognised that this would not be possible in many cases and advised the following specific measures:

- (i.) dedicated, easy to clean and clearly marked storage facilities for SBO should be used. Where this was not possible, facilities needed to be thoroughly cleaned before being used for non-SBO material;
- (ii.) during storage SBO must not be allowed to come into contact with any other materials. Overfilling of SBO containers should be avoided;
- (iii.) preferably, separate tools and mechanical equipment should be used for handling and processing SBO and the processed SBO;
- (iv.) equipment used solely for SBO should be clearly marked. Where separate equipment could not be provided items should be thoroughly cleansed before use with other materials;
- (v.) in respect of cooking equipment, where separate facilities were not available equipment should be cleansed to remove all traces of SBO (this would involve dismantling the equipment) or purging it twice with sufficient material to remove the traces of SBO. All material used during the purging of the machines should then be treated as SBO; and
- (vi.) processed SBO should be stored in dedicated separate, leak-proof, easily cleanable facilities.

139. In his statement to the BSE Inquiry, Mr Fleetwood commented as follows on the Code of Practice for renderers processing SBO material:¹⁸⁸

‘There was a code of voluntary practice in place in the industry about reducing possibilities for cross contamination in rendering plants. However, I knew from my experience with cross contamination in feed mills and rendering processes in relation to salmonella that, without dedicated plants, it was almost impossible to eliminate cross contamination risk.

Feed mills and rendering plants are complex plants handling material in multiple tonne quantities. They use automated equipment (such as screw

¹⁸⁷ M12A Tab 5 p1

¹⁸⁸ S127 Fleetwood, paras 53-54

conveyors and blow lines). It is very difficult, if not impossible, to remove all traces of previous material conveyed through the plant.’

140. In oral evidence, Mr Fleetwood stated:¹⁸⁹

‘MR FLEETWOOD: At the time the code was written in 1991 they [the provisions of the Code of Practice] probably were sensible and practical, because you must remember that there was also a ruminant feed ban in place. So this was a second tier of defence, the primary defence still being the ruminant protein ban.

MR MATOVU: When the studies emerged showing that 1 gramme or perhaps even less of material was sufficient to transmit infection, do you think that this purging system would have been a sufficient –

MR FLEETWOOD: No. That is one of the bases, or one of the reasons for the decision being taken to require dedicated lines.’

141. On 30 July 1992, Mr Simmons minuted Mr Crawford regarding the handling of animal waste at knackers’ yards and hunt kennels.¹⁹⁰ In general, Mr Simmons stated that reports indicated a relatively unchanging picture but it was clear that the lot of the knacker had improved gradually over the past few months, partly because of the acceptance of charging and the reduction in the costs of waste disposal. There had been no reports of closures since January 1992. However, several reports indicated dismay at the costs of registration under the Environmental Protection Act 1990. In respect of compliance with the Meat (Sterilisation & Staining) Regulations 1982, again no significant problems were reported. In respect of the dumping of fallen stock, the summary reflected that ‘a few reports of the dumping of sheep and calf carcasses were received but none were considered of particular significance’.

142. On 7 August 1992, MAFF distributed an Animal Health Circular 92/94 to DVOs for action and other veterinary and technical staff for information.¹⁹¹ The Circular noted that MAFF had received reports from industry contacts alleging that in some instances SBO was not being kept separate from other material and as a result some meal derived from SBO was being incorporated into animal feed. The Circular described changes to the controls on SBO which were to be introduced with immediate effect to ensure that protein derived from SBO did not enter the animal feed chain. The changes included extension of the movement licences for SBOs so as to provide similar information for the movement of SBOs from slaughterhouses and knackers’ yards to renderers as was already provided in respect of the movement of SBO material from renderers to disposal. At rendering plants, checks were to be carried out ‘from time to time’ to compare the weight of SBO raw material input and protein yield. The circular recorded that experts in the rendering industry estimated that the

¹⁸⁹ T55 p62

¹⁹⁰ YB92/7.30/2.1

¹⁹¹ M42 tab 13

protein yield would be about 25% of the original weight. The circular also enclosed the revised code of practice for renderers on the handling of specified bovine offal. DVOs were asked to distribute the code of practice to all rendering plants in their Division and during regular visits to plants ensure that the code was fully understood and applied by plant management and staff.¹⁹²

143. On 2 October 1992, Judith Nelson of UKASTA sent a fax to Dr Cooke of Dalgety Agriculture Ltd attaching a note prepared from comments made at a recent meeting of UKASTA's Scientific Committee.¹⁹³ The note was sent in preparation for a further meeting with MAFF officials to take place on 10 November and set out a number of hypotheses to explain the emergence of BSE in suspects born after 18 July 1988 (BABs). In respect of cross-contamination, the note stated:

'It was noted that the MAFF were not concerned about cross contamination of feedingstuffs in mills because the dose rate of meat and bonemeal would be too low.'

144. A review of hygienic standards in slaughterhouses was established on 28 October 1992 by the Minister of Agriculture, Fisheries and Food. The Review was to be carried out by Dr A M Johnston and Mr B J Spurr. Its terms of reference were:

'...to carry out an independent assessment of hygiene standards in a small sample of slaughterhouses which have applied for temporary derogations; to identify the extent to which structural deficiencies are contributing to hygiene problems and to assess whether the improvements required in the proposed work plan go beyond what is necessary to rectify the structure-related hygiene problems. Two plants were selected from each of the five MAFF regions in England and from Scotland and Wales (a total of 14 plants).'¹⁹⁴

145. On 28 October 1992, Mr Gummer appeared before the House of Commons Agriculture Committee to discuss progress on the British Presidency of the EU and other matters.¹⁹⁵ In response to worries expressed by the Committee that the European Regulations to be imposed on slaughterhouses were excessively burdensome, Mr Gummer stated¹⁹⁶:

'we have real problems with our slaughterhouses...I have decided to give an example or two of recent inspections...On Slaughter house A) it was reported: "Slaughter hall floor heavily soiled with blood, gut contents and other debris – no attempt to clean up between carcasses. Car cleaning brush heavily contaminated with blood and fat being used to wash carcasses. Knives and utensils not being sterilised. Offal rack and carcass rails

¹⁹² YB92/8.00/2.2

¹⁹³ YB92/10.2/1.2

¹⁹⁴ M22 Tab 6

¹⁹⁵ YB92/10.28/1.1-1.9

¹⁹⁶ YB92/10.28/1.2-1.3

encrusted with dirt. Window missing panes in roof – birds, flies and vermin entering.” Another slaughterhouse report: ‘Filthy equipment and surfaces – congealed and dry blood on offal racks. Effluent discharging across floor under dressed carcasses – risk of contamination. Slaughtermen at cattle sticking point not sterilising knife. No sterilisers or washbasins in pig slaughterhall. No fly screening on open windows.’

146. Mr Gummer went on to explain his commitment to the introduction of the regulations as follows:¹⁹⁷

‘I say this to the Committee because I am as unbelievably enthusiastic about not having regulations if you do not need them but the truth is, and I discovered much of this when I had to face the BSE issue I needed to be able to stand up in front of the public and say when we suggest certain things that they do happen, they have to happen, in slaughterhouses. Those examples have been put right and our inspections get them put right. I cannot derogate from the general standards of the European Committee Rules because they are necessary to enable the public to have confidence.’¹⁹⁸

147. On 30 November 1992, the Prime Minister sent a letter to Mr Gummer stating.¹⁹⁹

‘As I said in my Party Conference speech I am absolutely determined to reduce the burden of regulation on business. The regulatory burden we are imposing on business frustrates enterprise, innovation and growth. Regulations result in lost jobs, reduced international competitiveness and higher public expenditure. We must change all this.... We ... need to look at the new rules on meat hygiene which have caused alarm to local business, including butchers and village shops selling meat. Do we go too far in bowing to EC pressure on such things?.. it is essential that all Departments put time and energy into developing their deregulation programmes now. I am determined that we should have made major progress by the next Party Conference.’

148. On 2 December 1992, Mr Gummer produced a written answer to a question on slaughterhouses from Mr Nicholson MP.²⁰⁰ Mr Gummer broadly welcomed the EC Fresh Meat Directive before stating:

‘My Department has this week issued further guidance to local authorities on the provision of veterinary supervision at slaughterhouses. This guidance, which has been placed in the Library, should reduce the estimated cost of the inspection service substantially at some plants. My Department believes that the cost to the industry as a whole should be reduced by some £2 million, compared with estimates made by independent consultants on behalf of MAFF earlier this year.’

¹⁹⁷ YB92/10.28/1.3

¹⁹⁸ YB92/10.28/1.1

¹⁹⁹ YB92/1.30/2.1-2.3

²⁰⁰ YB92/11.30/2.1-2.3

Local authorities have considerable flexibility to arrange provision of the inspection service in the way which is most appropriate to their local circumstances subject to the overriding need to achieve adequate veterinary supervision. Pending transfer for responsibility for meat inspection to the proposed National Meat Hygiene Service I shall monitor inspection charges very closely, and will continue to encourage plant operators to discuss with their local authority any possible options for reducing costs.’

149. On 9 December 1992, MAFF provided an Animal Health Circular (92/147) to all veterinary staff regarding the handling of animal waste at knackers’ yards and hunt kennels.²⁰¹ The circular confirmed that the frequency of visits and returns for knackers and hunt kennels had been reduced from monthly to every two months with effect from 1 January 1993. It also stated that visits could be carried out by Animal Health Officers.
150. On 16 December 1992 Mr Simmons reported on the handling of specified bovine offals at rendering plants and collection centres.²⁰² Mr Simmons recorded his concern that MAFF Headquarters was not gaining a complete picture of SBO disposal. The returns from which the summaries were generated were based on Animal Health Circular 91/9 but there had been several changes in legislation and policy. Mr Simmons proposed that new instructions should be issued to the field in the form of an AHC, calling for two monthly returns, covering the handling of SBO in the slaughterhouse through to the licensed disposal of SBO derived protein (‘from cradle to grave’). This would enable the ultimate destination of SBO derived protein to be determined.
151. Mr Simmons went on to say:
- ‘In my opinion, such an instruction would not add to the workload of field staff as the information is already available from routine visits made for the purposes of AHC91/9 (every two months), sampling under the Protein Animal Protein Order (20 days sampling/year) or slaughterhouse visits (it is proposed to visit at least quarterly from 1 January 1993). In any case, field staff are under instruction to check on SBO handling whilst making unannounced visits to slaughterhouses (AHC91/61) and to issue licenses under Article 9 of the BSE order 1991 (AHC92/94).’

Events in 1993

152. On 18 January 1993, MAFF distributed an Animal Health Circular 93/6 to RVOs, DRVOs, RMHAs and VOs (meat hygiene) in England and Wales for action and to all other Field Veterinary Staff in England, Wales and Scotland for information.²⁰³ The Circular discussed the frequency of visits to licensed red meat and poultry slaughterhouses, cutting plants and cold

²⁰¹ YB92/12.9/1.1

²⁰² YB92/12.16/3.2

²⁰³ M42 tab 14

stores, farmed game handling and processing facilities and meat product plants approved by the Agriculture Departments for export to third countries. Full throughput licensed slaughterhouses were to be visited at least once every three months; low throughput slaughterhouses were to be visited at least once a year; and unannounced visits were to be made if considered necessary. The Circular also commented on the increasing types of slaughterhouses which were to receive visits (namely extending to poultry slaughterhouses).

153. In March 1993 Dr A M Johnston and Mr B J Spurr produced their report entitled 'Review of Hygiene and Structural Requirements in a sample of Slaughterhouses which have applied for Temporary Derogations under the Fresh Meat (Hygiene and Inspection) Regulations'.²⁰⁴ The review had been established on 28 October 1992 by the MAFF Minister (see above). The findings were summarised as follows:

'The plants we reviewed represented, as expected, a range in hygiene and structural standards. There was considerable variability in the attitude and commitment of individual operators to improve standards.

'Overall we are of the opinion that the requirements being imposed by the State Veterinary Service do not go beyond those necessary to rectify structure-related hygiene problems, and that there is still a considerable way to go before many of these premises will be acceptable for licensing.

We found considerable confusion existed within the industry on many points. There was total apathy from some operators who still do not believe that the single standard (even in hygiene) will ever be achieved. It is clear that in many cases the State Veterinary Service/Meat Hygiene Division made, and is still making, every effort to assist plant owners and operators.

Unfortunately we also found instances where, in our opinion, the actions and advice given by the State Veterinary Service officer fell short of the same quality. A combination of these factors did appear to cloud the key issues relevant to hygienic slaughter, which was further compounded by misinformation circulating within the trade.

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

However, there was considerable variability in the way in which State Veterinary Service officials had processed applications and discussed with operators the improvements which should be undertaken. This appears to have contributed to the extent to which structural and hygiene problems have been allowed to persist. We will deal with each of these main headings separately.

²⁰⁴ M22 tab6

154. In respect of the role of the State Veterinary Service, the report said:

We found wide variation in the approach which had been adopted by Veterinary Officers in discussing the future work plan requirements with individual operators. We have been told of instances where State Veterinary Service staff have used their own time, in excess of the normal working day, to assist in the development of a hygienic slaughter operation.

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

Also of concern was the variation in the ability of individual operators and veterinary officers to discuss and resolve problems. This has been aggravated by variation in the approach taken by the State Veterinary Service officials to points of detail, which should be resolved before the licensing exercise is completed.

We are convinced that State Veterinary Service officers were not consistent and in some cases, firm enough in their requirements to plant owners and operators. We consider a very firm line should have been taken with all plants. Some plants should have been closed on 31st December 1992 as they fell far short of even the existing legislation.

We were surprised that a greater emphasis had not been placed on a fundamental hygiene requirement, for example, the need for stainless steel or food grade material hooks throughout the UK. We accept, however, that in many of the plants there were important issues in need of more urgent attention.

We note the action taken by MAFF to address these points and improve consistency.

155. In respect of the role of the Official Veterinary Surgeon the report said:

1.

While not within our original remit, in all our visits the subject of provision, or in some cases the non-provision, of the Official Veterinary Surgeon service was raised.

We were very concerned to find little evidence, in most cases, of any attempt to provide an integrated meat inspector/veterinary service or to relate hours of attendance by Official Veterinary Surgeons to throughput and standard of hygiene or on an assessment of risk. In many cases, the Local Authority appeared disinterested and, in one case, most unhelpful in getting the veterinary service off to a reasonable start. These problems do not appear to exist in Scotland.

We see a real need for an integrated meat inspection/veterinary service to enforce the new Meat Hygiene Regulations. We are encouraged by the decision that the National Meat Hygiene Service will be established in 1995 and see this going a long way to improving matters. There is the potential for a real improvement. We see scope for the Meat Hygiene Headquarters and State Veterinary Service to take a stronger lead in managing the transition and encouraging better integration of the Official Veterinary Surgeon/Meat Inspector role in the hygienic operation of the plant in the interim. We suggest this could be done by bringing all relevant parties together at Regional or Divisional meetings where advice should be given on even application of hygiene and enforcement standards.

156. On 14 April 1993, MAFF distributed an Animal Health Circular 93/32 to DVOs and RVOs for action and other veterinary and technical staff for information regarding collection, handling and disposal of SBO.²⁰⁵ The Circular reported that reports generated by the Animal Health Circulars, while providing valuable information, did not provide a complete picture of the collection, handling and disposal of SBO from the slaughterhouse through to ultimate disposal. A new pro-forma had been produced (form MH6) to extend the scope of the return to cover all aspects of SBO disposal.
157. On 19 April 1993, Mr Simmons minuted Mr Crawford regarding the handling of animal waste at knackers' yards and hunt kennels. This was the first summary collated from the new two-monthly report forms which had been introduced by AHC 92/147.²⁰⁶ No problems were identified.
158. On 7 July 1993, the first report on handling and disposal of specified bovine offal from 'cradle to grave' (pursuant to Mr Simmons' suggestion) was prepared. The report stated that of the 320 slaughterhouses visited during the period, all were complying with the Bovine Offal (Prohibition) Regulations 1989. Separation of SBO was reported as satisfactory. In respect of collection centres, separation of SBO and other waste was reported as satisfactory in all but one plant. In respect of rendering plants, all but one of the plants handling SBO were complying with the Code of Practice for handling SBO. Minor infringements were noted and it was stated that the SVS were working with the local authority to resolve the problems.
159. On 8 July 1993, Mr Simmons minuted Mr Crawford regarding the handling of animal waste at knackers' yards and hunt kennels.²⁰⁷ In summary, Mr Simmons stated that the returns reported little of concern and indicated, in general, slow but steady improvement in trading conditions and the operation of knackers' yards and hunt kennels. The suggestion that knackers' yards were to be formally exempted from registration under the Prescribed Processes Regulations was expected to

²⁰⁵ M42 tab 15

²⁰⁶ YB93/4.19/1.1

²⁰⁷ YB93/7.8/1.1

ease their circumstances further. Again, no problems were reported in respect of Meat (Sterilisation and Staining) Regulations 1982, but a few reports of dumping were received.

160. The second report on the handling and disposal of SBO was produced on 5 October 1993.²⁰⁸ It stated that, in general, returns indicated satisfactory practices at all stages. Of the 342 slaughterhouses visited, all apart from four were complying with the Bovine Offal (Prohibition) Regulations 1989. The infringements were described as being of a minor nature, (eg failing to stain all SBO, failing to identify SBO bins satisfactorily). In all cases, it was reported that remedial action was taken by the local authorities once the problem was brought to their attention. Separation of SBO from other material during transport from the slaughterhouse was said to be satisfactory.
161. On 5 October 1993, Mr Simmons minuted Mr Crawford with his summary of returns on the handling of animal waste at knackers' yards and hunt kennels.²⁰⁹ The second report identified no significant changes from the position in the first report.
162. On 7 December 1993, Mr Simmons minuted Mr Crawford regarding the collection, handling and disposal of SBOs.²¹⁰ Mr Simmons stated that the reports indicated, in general, satisfactory practices at all stages. All slaughterhouses, apart from one, were reportedly complying with the regulations. The infringement reported was in a small slaughterhouse where two bovine heads were found in a bin of 'other waste'. Immediate remedial action was taken by the local authority once the problem was brought to their attention. Separation of SBO from other material during transport from the slaughterhouse was reported as satisfactory. At collection centres separation of SBO from other waste was reported as satisfactory in all but one plant. A temporary delay in onward consignment of material meant a risk of co-minglement of 'other wastes and SBO'. This had been resolved at the time of writing. All but one of the rendering plants handling SBO were reportedly complying with the code of practice for handling of specified bovine offal. The one plant which was not had been granted planning consent to build the wall that would ensure complete separation of unprocessed SBO from other waste. It was recorded that construction had begun. In respect of tallow, the reports recorded that all tallow produced from SBO, other than a small amount that was incinerated, was sold to brokers.

Events in 1994

²⁰⁸ YB 93/10.5/2.1

²⁰⁹ YB93/10.5/1.1

²¹⁰ YB93/12.7/1.1

163. On 19 January 1994, Mr Simmons minuted Mr Baker regarding allegations that SBO had been disposed of incorrectly at two slaughterhouses. Mr Simmons stated:²¹¹
- ‘If we continue to receive criticism about SBO disposal we may have to review our surveillance. For example, we could initiate an audit of weight of SBO noted on the movement permit, compared with weight of SBO that would be expected to be produced from the kill period under investigation. However, this is likely to meet some resistance from the LAs.’
164. The note included a hand-written annotation, from Dr Matthews, dated 20 January 1994 which stated:²¹²
- ‘I think we should audit records at the renderers, however, compare total input of raw material in January 1994 versus January 1993 for example, and relate to output of finished SBO meat and bone meal for disposal – this would not require LA involvement.’²¹³
165. In November 1993 a consultation letter was issued to industry organisations on the proposed new Spongiform Encephalopathy (Miscellaneous Amendments) Order. This related to the proposal, following advice from SEAC in October 1992, to bring the rules on the use of SBO-derived tallow for animal consumption in line with those applying to human consumption. In his statement Mr Meldrum notes that ‘(s)ome of the responses received from the industry raised concerns about failures by renderers to dispose of SBOs properly and that tallow produced from SBO might be finding its way into the human food chain. Meetings were set up with the industry to discuss these concerns, one with the feed fat industry on 18th January 1994 and another with UKRA on 21st January 1994’.²¹⁴
166. Mr Meldrum further notes in his statement that:
- ‘As a result of the concerns that had been raised by the industry since the issue of the consultation letter in November 1993, and following reports from UKRA that SBOs were arriving at renderers unstained, Mr Crawford issued a minute dated 1 February 1994 to all RVOs in England, Scotland and Wales explaining the reports we had received from UKRA and other reports of inadequate separation and handling of SBOs and [instructed] that all plants processing SBOs should be visited unannounced during February 1994.’²¹⁵
- Mr Crawford noted that some staff had been giving advance notice of intended visits and pointed out that this gave operators an opportunity to

²¹¹ YB94/1.19/1.1

²¹² YB94/1.19/1.1

²¹³ YB 94/1.19/1.1

²¹⁴ S 184A Meldrum para F101

²¹⁵ YB94/2.1/2.1-2.2; S 184 A para F102

ensure that, at the time of the visit, everything was being done that should be.²¹⁶

167. On 2 February 1994, Mr Bradley minuted Mr K Taylor regarding the policing of BSE controls.²¹⁷ Mr Bradley stated:

‘I, amongst others, have stressed the importance of ensuring that these controls are being effectively policed with particular respect to ruminant feed (RF) ban and the SBO ban. It has always been important to do this but any deficits will be more plainly revealed for all to see in the next few years and there could be serious financial implications re compensation and disposal, not to mention drains on veterinary resources.’

168. With particular reference to the SBO controls, Mr Bradley stated as follows:

‘Hearsay reports have suggested that SBO and other offals are not as well separated as they might be....I believe we are both of the opinion that whilst the RP ban was effective, though not completely so, after 18 July 1988 any infected RP getting through would be stopped by the SBO ban two and a bit years later. If the SBO ban itself is being abused then there is a weakness in this argument...The recent industry meetings have done little to allay the fears about SBO, rather the reverse, as we now know if we did not before, that tallow tanks at renderers may not adequately separate tallow from the two sources.

I believe we have to quickly and effectively reassess and if necessary, improve the policing of the controls both via MAFF and the local authorities. Any trickle of infected RP into the cattle feed chain could result in an unfortunate plateau of confirmed BSE cases in a couple of years which will be hard to deal with and may even prevent export of live breeding cattle, or reintroducing a ban if we are successful at having it lifted this year.’

169. On 23 February 1994, Mr Meldrum sent a minute to Mr Taylor asking, ‘as a matter of some urgency’, about any progress made on visits that had been conducted as instructed by Mr Crawford.²¹⁸ Mr Meldrum commented that he was ‘becoming increasingly concerned that some of the provisions of our legislation are being circumvented’.

170. On 7 March 1994, Andrew Scott of ED & F Mann Ltd wrote to Mr Soames regarding an article which had appeared that weekend in *The Mail on Sunday*.²¹⁹ The letter made two particular allegations:

The first was that

²¹⁶ YB94/2.1/2.1-2.2

²¹⁷ YB94/2.2/1.1-1.4

²¹⁸ YB 94/02.23/5.1

²¹⁹ YB94/03.07/3.1-3.2

- ‘(i) Tallow from banned offal, including the brain, spinal cord and spleen is still being included and still allowed to be included in the food chain; and
- (ii) Meat and bone meal from banned offal which is supposed to go into landfill is still finding its way into the food chain.’

Mr Scott argued that the financial incentive for abattoirs to flout the regulations was considerable. The cost to the knacker of disposing of SBO material was £50.00 per tonne for removal to land fill but he would receive £150.00 per tonne for material which could be incorporated into meat and bone meal for pig and poultry feed.

171. On 21 March 1994 Mr Meldrum minuted Mrs Ratcliffe, P/S Parliamentary Secretary, regarding preliminary results from the inactivation experiments.²²⁰ The study had been undertaken by the UK government, the European Commission and the European Renderers Association to see whether BSE agent added artificially to raw material could survive processing in a range of rendering plants in the UK and Europe. Preliminary results already showed that the agent survived treatment in three systems which collectively provided ‘most of the British rendering capacity’. Mr Meldrum stated:²²¹

‘The results support the hypothesis that BSE was caused by the presence of the agent in animal protein which was fed to cattle and underline the wisdom of the measures which have been implemented since July 1988 to prevent ruminant derived protein being fed to ruminant animals.

Although current control policies are vindicated, and no change is needed in response to these new findings, the results do raise questions about the advisability of continuing to export meat and bone meal containing ruminant protein.’

Mr Meldrum noted that only a small volume of meat and bone meal was being exported (only 40 tonnes in 1993) and said: ‘(h)owever we should recall that meat and bone meal produced in the United Kingdom would not contain material derived from specified bovine offals, which are in effect, destroyed.’²²²

172. UKASTA were also increasingly concerned about the problem of cross-contamination. According to Dr Cooke and Mr Clegg of Dalgety Agriculture Ltd three factors gave particular cause for concern during 1994, namely:²²³

- (i.) the realisation that the amount of SBO being processed did not correlate with the tonnage that would have been expected;

²²⁰ YB94/3.21/1.2-1.3

²²¹ YB94/3.21/1.2

²²² YB94/3.21/1.2-1.3

²²³ S 151 para. 10.1

- (ii.) EU-funded work on rendering processes, which revealed that there could be no guarantee that the infective agent would be completely inactivated, even under the best conditions of heat, duration and pressure; and
- (iii.) the early results of the MAFF attack-rate experiment: ‘MAFF study on the feeding of 100g, 10g and 1g of infected brain tissue had indicated that 100g of infected material in one meal caused BSE. However, from late 1994 through to 1995, information received from MAFF suggested first that 10g and then 1g of material might be enough to cause infection.’²²⁴

173. In his statement to the BSE Inquiry, Mr Fleetwood stated as follows:²²⁵

‘In March 1994, results began to come on-stream from the first (BSE) phase of the rendering experiment. These results provided the first direct experimental evidence that infectivity may survive some forms of rendering. In my role as study sponsor, I communicated these interim results to MAFF staff (the CVO and Mr Eddy) and to the European Commission.

These results came as no surprise. They corroborated epidemiological evidence which suggested BSE had been present in MBM, having survived the rendering process. The particular concern, shared by all those involved including the industry, was that there was now definite evidence that BSE infectivity would survive certain processes, but no evidence of what processes would eliminate it.

However, to put this into context, it is important to note that eliminating BSE infectivity through the rendering process was a second line of defence - the first being the various legislative measures to cut off recycling of infection.’

174. On 22 March 1994 Mr Soames replied to Andrew Scott explaining the Government’s policies in relation to BSE.²²⁶ Mr Soames’ response explained the measures put in place to deal with BSE and drew a clear distinction between measures taken to protect animal health and those to protect human health. Mr Soames stated the Ministry’s ‘strong commitment to the maintenance of strict measures where BSE is concerned.’ He added:²²⁷

‘I view with the utmost seriousness your allegation that some in the trade are not complying with the rules, and that material which should be going to landfill is entering the food chain. I am grateful to you for bringing these concerns to my attention, and am anxious that they should be properly investigated. To this end, I feel that it would be most useful if you could come into the Department and go over your evidence with my officials . . .

²²⁴ S 151 para 10.2.1c

²²⁵ T 127, paras 36-38

²²⁶ YB94/3.22/3.1-3.3

²²⁷ YB94/03.22/3.3

I suggest that you contact Mr Eddy, the Head of Animal Health (Disease Control) Division, to arrange a mutually convenient date.'

175. In respect of the use of tallow, Mr Soames stated:

'It is true that tallow can be used for animal feed. This is because the Spongiform Encephalopathy Advisory Committee (SEAC) took the view that the infective agent would fractionate with the protein rather than the fat fraction in the rendering process. More recently the Committee concluded that it would make sense to align the rules about the use of SBOs for animal feed with those relating to human consumption, and ban the feeding of all material derived from them to any species. However, this would primarily be as a precautionary measure and not because of any major and significant disease risk.'

176. On 24 March 1994, Mr Eddy minuted Ms Wordley, PS/Minister, attaching a note on the handling of the interim results of the UK/EC rendering studies.²²⁸ The results were based on testing samples in mice and only the positive results were available. Mr Eddy noted that no conclusions could be drawn on other systems because it was not certain that studies which were negative would not become positive in time.

177. In this statement to the BSE Inquiry, Mr Simmons recalled: '(i)n February 1994, I was requested by Mr Crawford to collate and analyse a further one-off return that should be completed by SVS staff in relation to the efficiency of SBO disposal at rendering plants.²²⁹ Mr Simmons produced this report on 25 March 1994.²³⁰ The report concluded:²³¹

'It is likely that a small but significant of the total amount of SBO processed, as a result of being inadequately separated and/or identified..., finds its way into ... animal feedstuffs.'

178. The report's summary of findings was:²³²

'1. In general, SBO is removed from carcasses correctly . . .

Compliance with staining requirements is patchy. In particular, intestines are frequently not stained . . .

Separation of SBO from "other waste" in the slaughterhouse is generally adequate . . .

There is evidence that separation of SBO from "other waste" is not always maintained after leaving the slaughterhouse . . .

²²⁸ YB94/3.24/5.2

²²⁹ S Simmons 87 para 16

²³⁰ YB94/3.25/1.1-1.10

²³¹ YB94/3.25/1.3

²³² YB94/3.25/1.4

There is evidence that some local authorities are not sufficiently diligent in controlling movements . . .

...

At collection centres, separation is generally adequate but it is accepted that determining the constituents of the stored material is almost impossible . . .

At rendering plants, compliance with the Code of Practice was considered to be generally satisfactory. Again the operators must take the stated constituents largely on trust . There were a few reports of poor separation and inadequate identification of stored material awaiting processing.'

179. On 28 March 1994, Andrew Scott responded to Mr Soames' letter of 22 March by passing on a copy of a letter from David Howells of FF-Man Feed Products, which addressed the issues Mr Soames had raised.²³³ With regard to the abuse of SBO regulations, Mr Howells' letter stated that:²³⁴

'The evidence for the abuse is by implication only in that the tonnages of SBO by-products do not reconcile with theoretical prediction. That there is scope for abuse was self-evident in that:

The infected offals are not being permanently stained under Ministry supervision

SBO and non-SBO materials are transported on the same vehicles.

SBO and non-SBO materials are processed through the same plant.

SBO tallows are currently not governed by movement order legislation.

SBO tallows and non-SBO tallows are processed on the same oleochemical plant.

Tank bottoms from the oleochemical industry contained significant percentages of SBO protein and are disposed of without a licence.

In many of the above operations there is a substantial difference in price between the SBO product and non-SBO product. In the circumstances, it is not surprising that there is an apparent discrepancy between theoretical and actual tonnages of SBO products. It would seem more appropriate to query whether there is evidence that the tonnages of SBO derived meat and bone meal, and tallow matched the theoretical predictions.'

180. On 8 April 1994, Mr Meldrum chaired a meeting which was attended by Messrs Crawford, Baker, K. Taylor, D. Taylor, Simmons and Howard and Mrs Sadowski, to review MAFF's arrangements for disposal of SBOs.²³⁵ Possible measures discussed included reviewing the SBO movement

²³³ YB94/3.28/2.1

²³⁴ YB94/03.25/3.2

²³⁵ YB94/4.11/1.1-1.3

permits system to allow cross-checks between the weight of SBOs leaving slaughterhouses and arriving at rendering plants; requiring that SBOs be stained with a different dye to avoid confusion between different staining requirements; requiring dedicated plants for rendering of SBOs; making the MHS responsible, when it was launched, for enforcement of the SBO regulations at the slaughterhouse; increasing the surveillance of knackeries and hunt kennels; and prohibiting the use of spinal column for MRM production. It was agreed that Mr Simmons would draft instructions to require the SVS to monitor SBO disposal at head boning plants and that a submission would be put to the Parliamentary Secretary outlining why the controls on SBO disposal were being reviewed and seeking a meeting with him to discuss possible measures that could be taken.

181. On 13 April 1994, Mr Simmons produced a plan for implementation over the following weeks of the various points which had been discussed at the meeting on 8 April 1994.²³⁶ This included issuing an AHC increasing the frequency of visits to knackers' yards and hunt kennels and for further checks at rendering plants and collection centres (a draft being provided with the minute). Mr Simmons stated he was 'somewhat uneasy about the reaction of LAs to the introduction of these checks since it amounts, at slaughterhouses and head boning plants, to scrutiny of their enforcement effort'.²³⁷

182. On 21 April 1994 Mr Soames responded to Mr Scott's letter dated 28 March 1994. Mr Soames wrote:²³⁸

'(T)he issues which Mr Howells and others raised when they met officials in January, and those which you have set out in the letters to me, are being considered carefully. In fact a paper is to be submitted to the Spongiform Encephalopathy Advisory Committee (SEAC) ... about the use of tallow in animal feedingstuffs which was the main issue discussed at the January meeting. Officials are at present considering the specific points about disposal of SBO material made by Mr Howells in his letter.'

183. On 25 April 1994, Mr Crawford responded to Mr Simmons earlier minute of 13 April 1994.²³⁹ Mr Crawford suggested some minor amendments and in respect of slaughterhouse visits stated:²⁴⁰

'If we are concerned to ensure the safe handling of SBOs (and to correct what is perceived to be a particular problem), two unannounced visits per year would seem to be rather infrequent. I would support more frequent visiting – say, quarterly. These could later be reduced in the light of experience.'

²³⁶ YB 94/4.13/1.1-1.6

²³⁷ YB94/4.13/1.2

²³⁸ YB 94/04.21/3.1-3.2

²³⁹ YB94/04.25/1.1-1.11

²⁴⁰ YB94/04.25/1.1-1.2

184. On 28 April 1994 Mr Meldrum chaired a further meeting to discuss SBO controls.²⁴¹ Specific points of action were agreed following on from the matters discussed at the meeting on 8 April 1994:²⁴²

‘1. Mr Simmons was asked to consider urgently the possibility of using a different colour heat resistant dye which would identify SBO, even after rendering.

ACTION: Mr Simmons

The possibility of requiring the use of such a dye through the Identification and Movement Control Regulations would be considered.

ACTION: Mr McIntosh

RMHAs would be asked to remind OVSs and AMIs of the need to keep SBOs separate from other material in the slaughterhouse and the need for tight control over movements.

ACTION: Mr Baker

There needs to be further consideration of the legislative loophole which allows SBO to come into contact with other by-products during transportation.

ACTION: Mrs Brown

Mrs Brown was asked to speak urgently to Dr Cawthorne and Mr Eddy about knackers’ yards which are not currently covered by the 1989 Regulations. It is likely that an Animal Health Order will be necessary to introduce the necessary controls as the 1989 Regulations are made under the Food Safety Act and therefore relate to public health.

ACTION: Mrs Brown

The CVO said that a reason for introducing an Animal Health Order would be on the basis of the inactivation studies, and to complement the provisions of the new Identification and Movement Control regulations. He also wanted SBO to be directed by LAs to plants authorised by MAFF with a dedicated line for processing SBO. Mrs Brown was asked to liaise with Dr Cawthorne and Mr Eddy about introducing regulations under the relevant parent Act.

ACTION: Mrs Brown’

185. Mr Simmons recalls in his statement:²⁴³

‘Until 1st April, 1995, SBO was stained with Black PN before disposal. SBO was stained to enable it to be identified, at a glance, as not suitable for

²⁴¹ YB 94/4.29/6.1-6.4

²⁴² YB94/4.29/6.3-6.4

²⁴³ S Simmons para 21

human consumption. However, the stain was easily broken down by microbial activity and was also confusing for the operators of premises since the stain was also used for other unfit carcase meat and offal. In April 1994, I was instructed by Mr Meldrum to research an alternative stain: one that was distinctive, not destroyed by the heat of rendering and one that could be readily detected in the protein and fat fractions of the rendered material. It was important that an approved colorant (ie with an 'E' number) was selected since this was to be used in food premises such as slaughterhouses.²⁴⁴

186. On 29 April 1994, Mrs Sadowski of Meat Hygiene Division A minuted Mrs Brown regarding the Bovine Offal (Prohibition) Regulations 1989.²⁴⁵ She stated that Mr Gunatilleke of the Legal Division had looked at the Regulations and concluded that knackers' yards were not covered by the Regulations because the premises referred to in Regulation 12 were those in Regulation 7, which excluded knackers' yards. The minute also discussed that fact that under the regulations SBO material could be 'sterilised', which would avoid the necessity to stain. Mrs Sadowski said²⁴⁶ 'if it was decided that SBO must be processed in such a way as to inactivate the BSE agent, then we would need to remove the option to sterilise at the slaughterhouse'.

187. On 3 May 1994, Mr Eddy held a meeting with colleagues to discuss in detail the problems that had been identified with the separation, handling and disposal of SBO material and to try to provide proposals to overcome those difficulties and on which legal advice was required.²⁴⁷ Present at the meeting were Messrs Fleetwood, Lackenby, Howard, Matthews, Simmons and Mrs Sadowski. The following action was recommended in respect of slaughterhouses:²⁴⁸

'(a) introduce new stain (green was suggested) to mark and identify ALL SBO material. Stain to be heat stable up to at least 135°C and probably higher, and to colour both protein and fat fractions (desirable but unlikely in view of other controls) after rendering;

SBO to be kept separate from non-SBO unless all material is to be treated as SBO and stained as such (including green offal);

permits for the movement of SBO to declare weights (or at least volume) and records required for quantities "in and out" at all stages. This is likely to present problems as some premises will not have equipment for weighing or measuring volume which may necessitate declared weights/volumes from the renderers;

²⁴⁴ S Simmons para 21

²⁴⁵ YB94/4.29/3.1

²⁴⁶ YB94/4.29/3.1

²⁴⁷ YB94/05.03/2.1-2.11

²⁴⁸ YB94/05.03/2.3-2.4

requirement for L/As to fill in details on the permits on the movement of material out of plant and not to rely on plant operators filling them in (or verify if operator has filled in details). In 1995 the MHS will become responsible for enforcement in slaughterhouses and head boning plants and it may be more practical for this task to be devolved to them than but collection centres are likely to remain the responsibility of the 2nd tier LA;

requirement to license movement of SBO only to rendering plants or incinerators specifically licensed to receive SBO) (but taking account of collection centres);

records to be kept by recipients to reconcile permits to a centre with actual deliveries and movement out for processing/disposal.’

188. As regards the handling of SBO at slaughterhouses, it was also recommended that local authorities should be reminded of the need for proper separation and staining of SBOs and that:²⁴⁹

‘(c) L/As to reconcile information from permits on quantities of SBO being moved particularly the regular checking that the completed SBO movement permit has been returned to them within a given period, following-up non returned permits;’

189. In respect of knackers’ yards and hunt kennels, the note of the meeting set out the legislative background before concluding that:²⁵⁰

‘Against this background it is clear that the present and proposed new measures provide insufficient control of SBO through knackers’ yards and similar premises. It was agreed that some additional form of control is necessary and that secondary legislation is the most appropriate vehicle for this.’

190. The recommended legislative changes in respect of the handling of SBO at knackers’ yards and hunt kennels were:²⁵¹

(a) requirement for the separate handling of SBO or if inadequate separation to treat all material as SBO;

(b) SBO to be stained using the new stain;

(c) permits required for all movement of both raw and sterilised SBO. Permits to specify weights etc as for changes to slaughterhouse permits...;

(d) SBO in green offal to be covered by the same rules as other SBO and to be sterilised or stained using “new stain” for SBO, and covered by movement permits’.

²⁴⁹ YB94/05.03/2.4

²⁵⁰ YB94/05.03/2.5

²⁵¹ YB94/05.03/2.5

191. It was also recommended that SVS visits to knackers (some unannounced) be increased from one every two months to one each month. An AHC draft had been prepared for this purpose.
192. In respect of the handling of SBO material at rendering plants, it was recommended that legislative changes be introduced to:²⁵²
- ‘(a) require rendering plants to be licensed (or approved) to handle SBO with dedicated plants or lines within plants. All SBO treatment to be a standard which inactivates the BSE agent (or at least reduces infectivity to undetectable levels under the recent trial protocol);
- although there is a requirement in the license under article 9 of the BSEO to keep records (for 2 years) of the weight of SBO before rendering and the quantity of material derived after rendering, a separate legislative requirement for the keeping of records is necessary so that reconciliation can be carried out;
- we already have in train proposals to extend to tallow from SBO the ban on the use in animal feed already in force for protein meal derived from SBO. This will require an extension of the meal licensing rules to tallow. It may be simpler to introduce these changes at the same time.’
193. It was also proposed that consideration should be given to the industry code of practice, in particular to consider whether it was effective and should it remain voluntary. Local authorities were to be encouraged to reconcile movement permits in order to avoid alleged problems where movement permits showed SBO movement to a plant which had never received it.
194. It was further agreed that provisions should be made for the separation of SBO from non-SBO material during transportation and for reconciliation of specified weights of SBO moved to and from the various recognised destinations.
195. On 5 May 1994, Mr Simmons minuted Mr Howard regarding proposals for changes to the controls on SBO disposals.²⁵³ Mr Simmons stated that it was his belief that requiring the consignee to declare weights or volumes of SBO would be a useful start to an effective audit trail. However, he remained concerned about the practicalities of such a system, since not all premises would have equipment for weighing or measuring volumes. He suggested that it might pay to have discussions with the renderers to determine whether they had a system of charging for collection which relied on weights or volume. Mr Simmons further explained that before the issue of movement permits under the Bovine Offal (Prohibition) Regulations the local authority had to ensure that the proposed destination was suitable. This applied as much to collection centres as it did to rendering plants. Head boning plants were already licensed by the SVS

²⁵² YB94/05.03/2.6-2.7

²⁵³ YB94/5.5/10.1

under the Fresh Meat (Hygiene & Inspection) Regulations 1992, since these were defined as cutting premises. They were subject to supervision, 'often intermittently', by the second-tier local authority. Mr Simmons felt that further approval would be of doubtful value. He believed that more efficient enforcement was required. The minute was copied to Mr Eddy, Mr Fleetwood, Dr Matthews, Mr Lackenby and others.

196. Also on 5 May 1994, Mrs S Sadowski of Meat Hygiene Division 'A' minuted Mrs Brown regarding the meeting with the Legal Department that had been chaired by Mr Eddy on 3 May 1994.²⁵⁴ Mrs Sadowski was asked to produce two lists, one which highlighted immediate action, which could be taken without amendment to legislation, and one which highlighted measures which required changes to current or new legislation.
197. The first list recommended that the Meat Hygiene Division should write to local authorities to 'remind them of their responsibilities in enforcing the Regulations, in particular the need to:'²⁵⁵
- 'Ensure that all SBO is properly stained...;
- Encourage consignors to compete Part II of the movement permit more accurately in respect of the quantity of material, the number of containers and the size and type of containers...;
- Reconcile movement permits issued with the receipted copy returned by the rendering plant to ensure that material is not being diverted.'²⁵⁶
198. It also proposed that the Animal Health Division should issue a circular to introduce 'greater presence of SVS staff at slaughterhouses, head boning plants, knackers' yards and rendering plants.'²⁵⁷
199. On 6 May 1994, Mr Simmons minuted Mr Crawford to inform him that his comments of 25 April had been incorporated into the draft AHC which was attached.²⁵⁸ In particular, he noted that the amendment as to the frequency of visits to hunt kennels and knackers' yards had been included.
200. On 9 May 1994, Mr Crawford replied to Mr Simmons.²⁵⁹ With regard to the need for weight checks, Mr Crawford stated that he acknowledged that comparisons between the consigned SBOs and recorded bovine kill could only be a rough guide. However, he felt it would be useful to monitor this for a few months to establish whether it provided useable information.

²⁵⁴ YB94/5.5/5.1-5.8

²⁵⁵ YB 94/5.5/5.1

²⁵⁶ YB 94/5.5/5.1

²⁵⁷ YB 94/5.5/5.2

²⁵⁸ YB94/5.6/1.1

²⁵⁹ YB94/5.9/2.1

201. On 9 May 1994 Mr Scott replied to Mr Soames' letter dated 21 April 1994 advising that he (Mr Scott) had asked Mr Howells to contact Mr Eddy and to pass on any positive evidence he should come across.²⁶⁰
202. On 17 May 1994, Mr Eddy minuted Mrs Davis and Mr Gunatilleke seeking advice on proposed legislative changes relating to the handling of SBO.²⁶¹ In particular, Mr Eddy remarked that '(t)he current arrangements are complex because they involve three policy Divisions at Tolworth and operate under the Food Safety and Animal Health Acts and therefore fall to two Divisions in the Legal Department. To make matters worse the animal health aspects are implemented by County Council level local authorities and the Food Safety Act aspects by the District Council tier'.
203. On 20 May 1994, Prosper De Mulder wrote to Mr Meldrum reiterating their concerns about various aspects of the SBO regulations, which they felt were not working as well as they should.²⁶² They commented that overall tightening up of all aspects of the SBO regulations was long overdue.
204. During the period from February to May 1994 European Commission inspectors visited temporarily and permanently derogated fresh meat establishments in the UK (referred to as "missions"). Their findings were reported in a General Report on the position in the United Kingdom in relation to temporarily and permanently derogated Fresh Meat Establishments.²⁶³ Amongst the findings were the following:

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

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

1. Poor overall standards

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

2. Inadequate veterinary supervision

²⁶⁰ YB 94/05.09.6.1

²⁶¹ YB94/5.17/1.1-1.13

²⁶² YB94/5.20/3.1

²⁶³ M22 Tab 13; *Clarification: the date of this report is unknown to the Inquiry*

OVSs are denominated by MAFF but employed by local authorities: MAFF does not have line control of OVSs, EHOs or AMIs.

OVSs were insufficient in number and in presence ie the slaughterhouses were not supervised in accordance with the Directive.

100% veterinary ante-mortem health inspection is no longer required or practised. In many cases this inspection is exclusively carried out by auxiliaries. Consequently, in many cases OVSs only see casualty or questionable animals.

OVS powers were quite limited in England – Wales: the OVS did not generally have any effective input in relation to inspection, cleanliness, maintenance or operational hygiene of the establishment. This poor input was often time-related eg only sufficient time to carry out the ante-mortem inspection.

OVSs/AMIs did not control the entry/exit of meat.

The system (non-centralised as described above, contractual, extremely limiting insofar as the official veterinarian is concerned) was clearly not working in an effective manner.

...

Many of these low-capacity slaughterhouses, which do not comply with the reduced structural requirements and which have been granted “derogations” until 31.12.1995, do not aspire to reach the full requirements.

...

8. Staff training programmes

These programmes do not appear to have been generally established.

9. Hygiene checks

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

...

11. Visibly contaminated carcasses were health marked

SUPERVISION AND HYGIENE

As a general rule veterinary supervision in terms of numbers and presence was inadequate.

The OVS line-managers were non-veterinarians who themselves were not line-managed by the State Veterinary Service of MAFF;

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

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

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

The individual reports attest to the fact that the general level of hygiene, in particular operational hygiene, was poor and was frequently of grave concern.

Derogations, in the case of temporarily derogated establishments, concentrated on physical absences or defects. Many quarterly reports seen did not refer to hygiene.”

205. At a meeting with UK Officials on 20 May 1994, the Commission Inspectors emphasized the general difficulties faced by the UK and in particular (among other things):

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

...

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

206. The report states that in response, the UK Officials:

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

...

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

207. In respect of the forthcoming transfer of enforcement responsibility to the MHS, the EC inspectors’ report stated:

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

208. From 24 to 27 May 1994 the fourth European Commission mission took place in the United Kingdom in order to examine the implementation of EC legislation, including trade rules, regarding BSE and subsequent report

prepared.²⁶⁴ The mission noted that (amongst other things) in the slaughterhouses it visited ‘(t)he removal of obvious nervous and lymphatic tissue during the cutting process was performed adequately’. The mission concluded that²⁶⁵:

“procedures applied in the UK provide sufficient guarantees for trade in calves and embryos.

.... Check and control procedures actually applied in Great Britain with regard to trade in bovine meat from the UK to Member States are in general satisfactory but need some improvement if they are to provide complete guarantees ... with respect to the origin and identification of the slaughter animals...”

209. On 29 May 1994, Mr Bradley replied to Mr Meldrum’s request for suggestions for improving the policing of the existing SBO ban and ruminant feed ban.²⁶⁶ Mr Bradley stated:

‘There is hearsay evidence of skulls (with brains inside) entering rendering plants with non-SBO offal.... Even if abuse happening it would not be of tremendous animal health importance unless MBM derived from the SBO was diverted into cattle feed since non-ruminants so far have not succumbed to [spongiform encephalopathy] naturally or experimentally’²⁶⁷

210. Mr Bradley went on to suggest ‘practical measures’, such as including bovine heads within the SBO ban, and specifying that visible nervous tissue and lymph nodes could not be used in the preparation of MRM. As ‘less practical measures’ he suggested investigating methods of carcase splitting other than sawing, training slaughterhouse workers to a common standard to maximise safety of carcase splitting and spinal cord removal, and including in the SBO ban tissues such as lymph nodes, nerves and the pregnant uterus and its contents. In respect of carcase splitting techniques, Mr Bradley noted that several methods had been reviewed by SEAC and SEAC had pronounced them ‘safe’. In conclusion, Mr Bradley identified various arguments against the ‘less practical measures’, such as the difficulty of policing them, increases in meat industry costs, lack of scientific evidence of aerosol formation and cross-contamination of carcasses, and the reduction in the number of infected cattle going into slaughterhouses.

211. On 15 June 1994 Mr Howard minuted Mr Meldrum, and widely throughout MAFF and the Territorial Departments, outlining discussions he had had with legal department about proposals to tighten the SBO controls.²⁶⁸ The minute gave a detailed explanation of methods by which

²⁶⁴ M27 Tab 13

²⁶⁵ M27 Tab 13

²⁶⁶ YB94/05.29/2.1-2.3

²⁶⁷ YB94/5.29/2.1

²⁶⁸ YB 94/6.15/1.1-1.6

it was proposed that further human health and animal health measures be introduced by statutory instruments under the Food Safety Act 1990 and the Animal Health Act 1981. In particular, there was a discussion on enforcement of the SBO and BSE controls. Mr Howard highlighted that provisions made under the Food Safety Act 1990 were being enforced by District Councils (i.e. responsibility for slaughterhouses, head boning plants, collection centres, knackers yards etc.), whereas provisions under the Animal Health Act were being enforced by County Councils (i.e. responsibility for rendering plants and disposal of waste after rendering) and following the introduction of the MHS in April 1995, enforcement of controls at slaughterhouses and boning plants would be transferred from local authorities to the MHS. This would mean that the SBO controls would be enforced by three separate authorities and Mr Howard noted that, considering the importance of the controls, this was an aspect that needed further consideration.

212. Mr Meldrum replied to Prosper de Mulder's letter of 20 May 1994 on 3 June 1994.²⁶⁹ In the letter he stated that PDM were not the only ones to voice concern about the disposal of SBO and MAFF's own investigations revealed that in a small number of cases the system was not working as well as it should adding: '(t)his is being addressed urgently. All staff have been instructed to increase their vigilance and to target any perceived weaknesses in the system'.²⁷⁰
213. An emergency meeting of SEAC was convened on 25 June 1994 to discuss the results of the pathogenesis study, which had revealed infectivity in the distal ileum of a calves killed six and ten months after exposure to the agent (but not in a calf killed two months after exposure).²⁷¹ The minutes note Mr Tyrrell's concern regarding 'the difficult position this placed the Committee in when they were expected to produce top class scientific opinions in a rush. This was an unrealistic expectation.' With respect to human health:²⁷²
- 'The Committee considered that the theoretical risk of infection of man via food derived from infected calves is minuscule if it occurs at all but information on calves is still very limited and as the experiment is still in progress and further information is expected it will be necessary to monitor these results carefully to see if this basic conclusion is correct and to see whether further action is needed.'
214. The Committee further noted:²⁷³
- 'What was clear was that thymus and pancreas were used for human consumption and if either of those were remotely likely to harbour agent

²⁶⁹ YB94/6.3/1.1-1.2

²⁷⁰ YB94/6.3/1.1

²⁷¹ YB 94/6.25/2.1

²⁷² YB94/6.25/2.4

²⁷³ YB94/6.25/2.4

then action would need to be taken. The question was a difficult one and final conclusions could not be drawn at this stage in the ongoing experiment.'

215. It also noted that :²⁷⁴

'at this stage one cannot give a definitive answer. There is a theoretical risk and Government could respond by a limited SBO ban for calves to exclude the intestines.'

216. During the meeting the Committee consider a draft paper by Mr Wilesmith and Mrs Hoinville and others on the case central study for calves born after the ruminant feed ban. The Committee concluded that:²⁷⁵

'The paper showed no good evidence of either maternal or horizontal transmission ... Food contamination was likely to be the major source [of BAB cases] and the Committee expressed its concern that the later BAB cases suggested that there could still be some contaminated material slipping through the controls into animal feed through cross-contamination in mills producing ruminant and monogastric feed and through lax compliance with the SBO rules.'

217. Mr Meldrum explained in his statement that he, Mr Eddy and Mr Bradley attended lengthy meetings over the following weekend with the CMO, Mr Calman. Mr Calman explained his concerns about the findings of the pathogenesis study and that the DH wished to get advice from SEAC. Mr Calman was anxious to make a statement as soon as possible and wished to avoid any suggestion of there being a delay in dealing with the information and taking any necessary action to protect public health. He therefore went through the pathogenesis study in detail and reviewed the current knowledge of the epidemiology of BSE.²⁷⁶

218. On 28 June 1994, Ms Wordley minuted Mr Eddy concerning a series of meetings the Minister had held on 27 June 1994 to discuss the latest results from the BSE pathogenesis experiment.²⁷⁷ Ms Wordley noted there had been a brief discussion of the legal scope for action:

'Under the Food Safety Act, there were specific provisions covering what could be done and what had to be taken into account. Mr Attwood said that in order to use the emergency powers, it would need to be clear that emergency action was justified. Moreover, provisions would have to be notified under the Technical Standards Directive. The Minister agreed that the legal point would have to be discussed with the CMO, but legal niceties could not be used to justify lack of action if that was what the CMO recommended. Further examination of how quickly we could act under the legal powers was needed. The Minister noted that, in any event, as far as

²⁷⁴ YB94/6.25/2.4

²⁷⁵ YB94/6.25/2.3

²⁷⁶ S184A, Section F, para.116

²⁷⁷ YB94/6.28/1.1-1.3

BSE was concerned, we had always gone a little further than the scientific evidence justified.’²⁷⁸

219. Animal Health Circular 94/106 was issued to all DVOs on 29 June 1994, replacing AHC 92/94 and AHC 93/32.²⁷⁹ In respect of slaughterhouses, the instructions required that each cattle slaughterhouse must receive an unannounced visit every two months. Two separate weeks’ kill in the proceeding period should be selected and the movement permits should be compared to the kill for the period in question. The amount of SBO consigned should be compared to the number of bovines killed. Estimates of the expected yield of SBO should be checked against the records of cattle slaughtered. At each of the visits, checks were to be made to establish that SBO remained separate from ‘other waste’.
220. On 30 June 1994, MAFF and DH made a joint announcement regarding preliminary results of an experiment to trace the biological routes through which BSE develops in cattle.²⁸⁰ The preliminary results confirm that ‘following the feeding of calves with large doses of BSE-infected material, traces of the disease can be detected in the animals’ small intestines. Furthermore, (t)hese ‘results show that it is possible to transmit BSE to laboratory mice from intestines taken from young cattle when fed a substantial dose of brain material known to contain BSE.’²⁸¹
221. The announcement also states that both SEAC and the CMO assessed the results and ‘(a)lthough they consider that the risk to human health is minuscule, the existing ban on the use of specified bovine offals is to be extended to include the intestines and thymus of calves under the age of six months...’²⁸²
222. The announcement quotes extensively from a Parliamentary Written Answer to Dr Liam Fox MP, (Woodspring) by Gillian Shepard of MAFF, which states (among other things) ‘the Chief Medical Officer continues to advise that there is no evidence whatever that BSE causes Creutzfeldt Jakob Disease (CJD) and, similarly, not the slightest evidence that eating beef or hamburgers causes CJD.’
223. On 8 July 1994, Mr Soames wrote to Paul Cheale, President of the Federation of Fresh Meat Wholesalers, concerning hygiene standards in slaughterhouses.²⁸³ Mr Soames stated:²⁸⁴

²⁷⁸ YB94/6.28/1.3

²⁷⁹ YB94/6.29/4.1-4.10

²⁸⁰ YB 94/6.30/6.1-6.8

²⁸¹ YB 94/6.30.6.2

²⁸² YB 94/6.30/6.3

²⁸³ YB94/7.8/4.1

²⁸⁴ YB94/7.8/4.1

'I have been considering with officials of the State Veterinary Service and Meat Hygiene Division the results ... of slaughterhouse inspections using MAFFs new Hygiene Assessment System.

The SVS inspectors are finding widespread deficiencies, ... particularly in the areas of slaughter and dressing and personnel practices. Problems in these areas frequently resulted in cross contamination of the carcase....

Those plants which received the lowest scores are being revisited and revocation of their licence will be considered if they fail to show a substantial improvement. But there is a real need for improvement in hygiene standards in the majority of premises inspected, not just in the worst cases.'

224. At a monthly management meeting Mr Haddon asked Dr Cawthorne to take over from Mr Eddy responsibility for progressing legislative changes to the SBO controls that had started in April 1994, and to prepare an action plan. One of the proposed changes was to limit the rendering plants that could handle SBO to those which had a processing line dedicated solely to SBOs and the separate collection of protein and tallow derived from them.²⁸⁵ Dr Cawthorne gave the task of taking this initiative forward to Mr Fleetwood. At Dr Cawthorne's request, Mr Fleetwood telephoned the major UK rendering plants in order to check capacity. In the course of his telephone calls, he took the opportunity to obtain information about the quantities of SBOs that resulted, and the theoretical tonnages that ought to have been resulted, from slaughterhouse throughput.²⁸⁶ The results of Mr Fleetwood's inquiries suggested that 'SBO controls were not working',²⁸⁷ and indicated a 'substantial shortfall in the estimated SBO which renderers were receiving compared with estimated SBO which ought to have been received by them.'²⁸⁸
225. A report prepared by Dr Cawthorne was presented to Mr Haddon on 15 July 1994.²⁸⁹ It highlighted the results of Mr Fleetwood's telephone survey of renderers and referred to Prosper de Mulder's view that since SBO was not being stained 'some renderers may be diverting SBO for normal processing'.²⁹⁰ Dr Cawthorne concluded that whilst staining might improve the situation by restricting opportunities for siphoning off at rendering plants, the long term solution demanded 'effective policing of SBO separation, staining and storage at slaughterhouses'. Dr Cawthorne proposed the following changes to controls on SBOs:²⁹¹

²⁸⁵ S Fleetwood para 51 et seq

²⁸⁶ S Fleetwood para 56

²⁸⁷ S Fleetwood para 57; see also T37 at 128 et seq; T55 at 59 et seq, 82, 87 et seq, 95 et seq

²⁸⁸ S Fleetwood para 57

²⁸⁹ YB94/7.15/2.1

²⁹⁰ YB94/7.15/2.2

²⁹¹ YB94/7.15/2.2

'We wish to monitor and control the collection and movement of all SBOs (including that from calves less than 6 months of age), from their premises of origin, (slaughterhouses, knacker yards, boning and cutting plants, hunt kennels, fur farms, zoos, etc) to Agriculture Department approved rendering/incineration plants via approved collection centres, and to ensure SBO material remains identifiable and separate from other material at all times. We also want to ensure any protein or tallow derived from SBO does not enter the animal or human food chains by requiring its burial or incineration in the case of meat and bone meal, or chemical fractionation, in the case of tallow. To this end, the following legal requirements are considered necessary:

- (a) all SBO to be stained at the premises of origin with a water soluble, non toxic dye capable of withstanding the temperatures reached in rendering (130°C). Ideally such a dye will be carried through to any meat and bone meal derived from processed SBO making it easily distinguishable from non-SBO derived material;
- (b) separate handling, storage and transport of SBOs from non-SBOs at premises of origin, intermediate collection points and premises of final destination (rendering plants, incinerators); if this cannot be achieved, all non-SBO to be treated as SBO;
- (c) all movements of SBOs between premises of origin, intermediate collection points and premises of final destination to be subject to movement permits issued by the local authority or the Meat Hygiene Service, when in place and where appropriate;
- (d) all intermediate collection points to be approved by Agriculture Ministers, approval they have the necessary facilities to store and handle SBOs separately from other animal waste and that they keep records on SBO movements onto and off the premises as required;
- (e) all SBOs to go to rendering plants/incineration plants approved/designated by Agriculture Ministers: approval would only be given if they have (a) the necessary facilities for the separate storage and handling of SBOs (b) a line dedicated solely to the processing of SBOs and the separate collection of protein and tallow derived from it... and (c) can meet the new EC standards for the processing of ruminant material;
- (f) all greaves, meat and bone meal and tallow derived from SBO to be moved under Agriculture Minister licence to approved incinerators or burial sites, subject to a final decision being reached on SBO derived tallow;
- (g) the owner or person in charge slaughterhouse, knackers yard etc, intermediate collection point or rendering/incineration plant to (a) record the weight of all SBO material originating from, leaving or arriving at his premises (b) keep such records for a minimum of two years and (c) make the records available to Agriculture Ministers or local authority on request. Ideally access to inspect records also required.²⁹²

²⁹² YB94/7.15/2.7-2.8

226. Dr Cawthorne emphasised that a suitable dye needed to be identified and tested. A commercial scale trial of a candidate dye in a batch rendering operation (Dundas, Scotland) was to take place on 25 July 1994²⁹³ and was to be carried out by Animal Health Zoonoses Division and Meat Hygiene Division.
227. In his statement to the BSE Inquiry, Mr Fleetwood explained that this task was transferred to Zoonoses Division following Dr Cawthorne's recommendations in his 15 July 1994 action plan.²⁹⁴ Mr Fleetwood identified two practical problems which arose from staining SBOs with Black PN.²⁹⁵
- 'First, it made it difficult to distinguish SBOs stained according to the 1989 SBO regulations from offal stained according to the Meat and Sterilisation Regulations 1982 ... Secondly, Black PN was not bio-stable. It tended to disappear as an identifiable stain after approximately 48 hours on offals.'
228. On 23 July 1994, Mr Meldrum received a minute from Dr Cawthorne with a draft submission for the Minister on the proposals to improve the controls on the collection, storage, transportation, processing and disposal of SBOs.²⁹⁶ The minute was copied to Mr Haddon. The draft submission explained how evidence obtained from reports from SVS field staff indicated that there was some non-compliance with staining requirements; that separation of SBOs and non-SBOs was not always maintained during transport to rendering plants or collection centres; and that some local authorities were less diligent than others in controlling and reconciling the movement of SBO from slaughterhouses to renderers. It was pointed out that as a result of these findings enforcement had been stepped up and SVS staff had been instructed to make unannounced visits every two months to all cattle slaughterhouses to check on the collection and separation of SBOs and the adequacy of the movement permits issued and that all shortcomings identified should be pursued. The draft submission then set out each of the proposed changes designed to make it easier to identify SBOs and to make it more difficult to divert SBOs into meat and bone meal for incorporation into animal feedingstuffs. In summary, the proposed changes were:
- (i.) to introduce a legal requirement for all SBO to be stained with a distinctive, non-toxic dye;
 - (ii.) to introduce a legal requirement for SBOs to be handled, stored, transported and processed separately from non-SBO material;
 - (iii.) to extend requirements for SBO movement permits to knackers' yards;

²⁹³ YB94/7.15/2.11

²⁹⁴ Statement 127, para 59

²⁹⁵ S Fleetwood para 60

²⁹⁶ YB 94/07.23/1.1-1.11

- (iv.) to require movement permits to contain additional information on the weight of SBOs moved;
- (v.) to require collection centres and rendering plants to be officially approved for dealing with SBOs; and
- (vi.) that slaughterhouses, knackers' yards, collection centres and rendering plants should keep records of all SBO material with which they deal.

In addition, it was proposed that rendering plants should be required to process SBOs in a dedicated cooker or plant. The feasibility and implications of these proposals would be clarified once the industry had been consulted.

229. On 2 August 1994, a revised draft of the submission to the Minister on the proposed changes to SBO controls was circulated by Dr Cawthorne for comment within MAFF. It was also copied to SOAEFD, WOAD, DANI and DH. Dr Cawthorne sent the finalised submission to the PS/Minister on 10 August 1994 which stated (among other things):²⁹⁷

'Recently there have been allegations that the SBO controls are not always adhered to, and that some SBO may be finding its way into animal feed stuffs. Evidence to substantiate such claims is difficult to obtain, but analysis of available data suggests that a sizeable proportion is not being destroyed. Reports from our veterinary field staff indicate that while SBO is in general correctly removed from carcasses and compliance with staining requirements is, on the whole, fairly well observed, intestines are frequently not stained. Separation of SBO from non-SBO material in slaughterhouses is generally adequate but this separation is not always maintained during transportation to rendering plants or collection centres. Inadequate staining makes it more difficult to distinguish SBO from non SBO material, and provides opportunity for SBO to find its way into animal feedstuffs if mixed with non-SBO material. There is also evidence that some local authorities are less diligent or less effective than others in controlling and reconciling the movement from slaughterhouses to renderers.'

230. The submission also stated that the changes it proposed require careful presentation to avoid giving any impression that existing controls are not working and human health was being put at risk: 'our primary concern is to minimise the possibility of material derived from SBO getting into animal feed'.²⁹⁸

231. On 17 August 1994, Dr Cawthorne, Mr Howard and Dr Matthews met with UKASTA and CVL to discuss, amongst other things, the current and future controls on SBOs.²⁹⁹ The note of the meeting stated:

²⁹⁷ YB 94/8.10/2.1-2.11 at 2.3-2.4

²⁹⁸ YB94/8.10/2.10-2.11

²⁹⁹ YB94/9.13/2.3

‘The CVL reiterated the finding known for some time that (*sic*) a single exposure to the BSE agent likely to cause the disease to develop. There was no evidence of the occurrence to BSE resulting from a cumulative exposure.

The BSE epidemic is consistent with a low dose exposure....

A discussion took place on the implications to the feed industry if it was subsequently shown that a dose of 1g had caused BSE. Setting aside considerations of the effectiveness of the SBO legislation and even though it was possible to try and minimise the risk of cross contamination between feeds for ruminants and those for monogastrics, the only protection for a feed manufacturer might be to stop using meat and bonemeal in any feedingstuff.’

232. The consultation letter on the changes which were proposed to the controls for the collection and disposal of SBO was sent out on 22 August 1994.³⁰⁰ It explained the current need for rationalisation in the light of the several pieces of existing legislation which regulated the collection, movement and disposal of SBO. It stated the overall aim was:³⁰¹

‘...to combine in a single Order all the controls over the collection and disposal of SBO from where it is produced in slaughterhouses, knackers yards, hunt kennels or any other place through to its destruction in incinerators or if it is rendered, the final disposal of the protein and tallow produced.’

233. On 24 August 1994, Mr Meldrum sent a minute to Mr Fleetwood saying that he felt it was essential that a dye be found before the regulations were introduced requiring the staining of SBOs with a new dye rather than having to introduce one at a later stage.³⁰² He requested a progress report on any new dye that had been suggested for use. In response, Mr Fleetwood informed him that new stains were being assessed and depending upon those results an industrial scale trial could be repeated for any potential stain.³⁰³ Mr Fleetwood remarked that he was ‘aware that this was taking longer than we would have liked, but the technical difficulties are considerable’.

234. On 8 September 1994, a meeting took place between MAFF, CVL and UKASTA.³⁰⁴ The meeting was attended by Mr K Taylor, Mr Fleetwood, Mr Howard, Dr Matthews and Mr Wilesmith. Mr Meldrum records in his statement that although he did not attend this meeting, Mr Howard provided him with a copy of a note of the meeting prepared by UKASTA. The issues discussed at the meeting were the BSE control measures, the

³⁰⁰ YB 94/8.22/2.2

³⁰¹ YB95/5.5/3.3

³⁰² YB 94/08.24/1.1

³⁰³ YB 94/8.26/2.1

³⁰⁴ YB 94/09.08/4.1-4.4; S Meldrum, 184A section E para 114

ELISA test and a proposed questionnaire for feed compounders. It was reported at the meeting that CVL had always considered that the infective dose of BSE was relatively small and that, although not yet complete, the studies being undertaken on the oral exposure of cattle (the attack rate study) were indicating that a very low dose was sufficient to cause BSE. In addition, with completion of the case control study it was the considered opinion of MAFF researchers that the potential for cross-contamination at feed mills was a cause of some concern. UKASTA advised that under the circumstances the only way in which individual compounders could fully protect themselves against possible claims was by stopping the use of meat and bone meal altogether in mills where ruminant feeds were being manufactured. MAFF representatives reported on the recently adopted European Commission Decision (94/382/EC) on heat treatment systems for processing ruminant meat and bone meal based on work undertaken on de-activation of the BSE and scrapie agents. The Commission Decision (94/381/EC) banning the use of mammalian meat and bone meal in ruminant feedingstuffs was also discussed. MAFF representatives advised the meeting that the UK ruminant feed ban would not be lifted when the legislation implementing the Commission Decision on rendering processes was adopted. It was also reported to the meeting that it was hoped that the ELISA testing facility at Luddington VI Centre would be expanded and that a commercial testing service would be available in due course.

235. The finding that 1gram of infective material was or might be sufficient to transmit BSE came as a surprise to Mr Wells, who was the experiment leader at the CVL. In oral evidence to the BSE Inquiry, he said:³⁰⁵

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

236. Mr Fleetwood minuted Mr Meldrum, among others, on 13 September 1994 informing him that Patent Blue had been identified as the most suitable new stain and recommending that a field trial for the stain. Mr Meldrum agreed with this recommendation immediately.³⁰⁶

237. On 2 November 1994 the Bovine Offal (Prohibition)(Amendment) Regulations 1994 (SI No 2628) extended the Bovine Offal (Prohibition) Regulations 1989 to include intestines and thymus of calves under six months of age within the prohibition. Specifically, Regulation 2(1) was amended to include the following definition:

‘excluded matter’ in relation to any bovine animal which has died or been slaughtered in the United Kingdom means any part of such an animal which does not consist of or contain any specified bovine offal;’

³⁰⁵ T51 Wells p. 78-79

³⁰⁶ YB 94/9.13/3.1-3.2

The definition of 'specified bovine offal' was amended to mean the following parts of the bovine animals:

- i the brain, spinal cord, spleen, thymus, tonsils and intestines of an animal, more than six months of age, which has died or been slaughtered in the United Kingdom;
- ii the thymus and intestines of an animal, two months or over but not more than six months of age, which has died or been slaughtered in the United Kingdom;
- iii the thymus and intestines of an animal, under two months of age, which has been slaughtered in the United Kingdom; and which no longer form part of the carcass of an animal.

238. On 2 November 1994, Mr Simmons produced his second report following the introduction of AHC94/106.³⁰⁷ Over 350 slaughterhouse visits were made during reporting. No significant problems were reported in separation, staining and consignment of SBO at slaughterhouses. Some slaughterhouses did not separate SBO from other waste, but it was dispatched as a mixed consignment with all of the material being treated as SBO. While this was an acceptable procedure, it was noted that it precluded the use of detailed weight checks.

239. On 21 November 1994, the outcome of the consultation exercise on the proposed changes to the SBO controls was circulated by Dr Cawthorne with a summary explaining the various responses received on each of the proposals and his conclusions as to what recommendations should be made to the Minister.³⁰⁸ Dr Cawthorne's conclusions were as follows:

- (i.) that the option of sterilising of SBOs on removal from carcasses should be removed;
- (ii.) that Patent Blue should be recommended for staining SBO;
- (iii.) that it should be made a legal requirement to separate SBO from non-SBO material at all points and that mixtures should be treated as if they were SBO;
- (iv.) that although there was widespread agreement on the need for an improved system for auditing SBO movement, the consultation had identified a number of difficulties, and so the movement permit system needed to be thought through carefully before recommendations went to Ministers (with record keeping requirements to be considered in conjunction with this);
- (v.) that collection centres should be approved and preferably by MAFF rather than local authorities; and
- (vi.) that there were no 'obvious barriers' to the approval of renderers for SBO processing. Mr Meldrum had reported that there was a

³⁰⁷ YB 94/11.2/1.1

³⁰⁸ YB 94/11.21/1.1-1.9

division of opinion on the issue of requiring SBOs to be processed in dedicated cookers or plants, and Dr Cawthorne recommended that this needed further consideration and discussion with the industry.

240. On 21 November 1994, Mr Packer minuted the Minister regarding a recent meeting he had attended with representatives of UKASTA. Mr Packer stated:³⁰⁹

‘The background is the development by MAFF of a test for ruminant protein in feed which is likely to be able authoritatively to detect small proportions (perhaps as low as 0.25%). It is interesting that against this background the trade’s protestations that cross-contamination never occurred have been reversed; they are now more or less telling us that where the same mill is used for ruminant and non-ruminant feed some cross-contamination is inevitable, though this is usually at low levels.’

241. On 22 November 1994, the PPS/Minister minuted the Permanent Secretary thanking him for his minute to the Minister of 21 November.³¹⁰ The Minister asked whether ‘in practice we believe that cross-contamination has been taking place: If it has, what consequences does this have and is there any action which the Ministry should take given the new judgment we now have of the possibility of cross-contamination having occurred, albeit at low levels’.

242. On 28 November 1994, Mr K Taylor minuted the Permanent Secretary noting that the consequences of any cross-contamination depended on the amount of ruminant derived protein which had entered feed for ruminants after the ban and whether any of the ruminant-derived protein contained BSE infectivity. The latter point depended in turn on whether the SBO ban had been effectively enforced, and whether the rendering method used was effective in inactivating the BSE agent.³¹¹

243. On 30 November the PS to the Parliamentary Secretary (Mrs Browning) commented that Mrs Browning understood ‘that as little as 1 gramme of ruminant protein from an infected animal is sufficient to transmit BSE. She therefore feels that if cross-contamination is detectable, the correct course of action would be to move, in consultation with the industry, to a situation in which separate production lines would have to be used for ruminant and non-ruminant feed’.³¹²

244. On 30 November 1994, Mr Packer, Mr Taylor and Mr Eddy met with UKASTA.³¹³ During the meeting, officials were asked whether, in their view, cross-contamination had been taking place in feed mills. They

³⁰⁹ YB94/11.21/3.1

³¹⁰ YB94/11.22/1.1

³¹¹ YB94/11.28/4.1

³¹² YB94/11.30/4.1

³¹³ YB 94/12.2/1.1-1.3

responded that MAFF 'strongly' suspected some cross-contamination had taken place. In support they offered the following evidence:

- (i.) the born after the ban cases were proportionally greater in those parts of the country where the ratio of pigs and poultry numbers to cattle were the highest. These were areas where one might expect the greatest risk of cross contamination of ruminant feed with ruminant protein; and
- (ii.) the new ELISA test showed provisional positive results for two mills. The detailed evidence implicated a contaminated ingredient in one case, and suggested a possible cross contamination in the other. (Both mills had altered their arrangements and particular products which had been positive under the old arrangements were now negative.)

245. The note of the meeting went on to state that the above tended to support MAFF's thesis as to the main cause of the epidemic, 'though if the animal health controls are shown not to have been 100% effective it will be necessary (but difficult) to explain that there is no necessary read across to the effectiveness of the public health controls'.³¹⁴

246. On 2 December 1994 Mr Packer minuted the Minister to answer the questions that Ministers had raised and report on the UKASTA meeting:³¹⁵

'1... The main new point was that I was able to tell them that we were now confident that the new test for ruminant protein in feed was working properly and did not require recalibration . . .

2. Mr Cameron said that he would need to call a special meeting very soon to inform members of this development. He expected some companies to decide to stop using meat and bone meal in those pig and poultry feeds manufactured in plants in which ruminant feeds are also manufactured. He estimated that as much as 70-80% of pig and poultry feeds were currently produced in such mixed mills. He also expected the medium term larger companies would decide to reorganise production into ruminant only and monogastric (pig and poultry) only mills. The single mill companies had less room for manoeuvre but could over time make improvements to reduce the possibility of cross-contamination.

3. It must be likely that there will be a short term decline in meat and bone meal usage. But it now looks much less likely that UKASTA will issue a clear statement to their members recommending an end to all use of meat and bone meal as had been suggested initially. . . .

4. My only comment would be that it is a pity the industry did not take the steps now contemplated at an earlier stage.'

247. On the points that Ministers had questioned, the Permanent Secretary advised: 'We strongly suspect that cross contamination has occurred in at

³¹⁴ YB94/12.2/1.3

³¹⁵ YB94/12.2/1.1-1.3 at 1.1-1.2

least some feed mills'.³¹⁶ He stated that the industry's reaction 'more or less confirms this'. In addition, he drew the Minister's attention to two new pieces of evidence:³¹⁷

(i) The number of 'born after the ban' cases are proportionately greater in those parts of the country where the ration of pig and poultry numbers to cattle numbers is the highest. These are where one might expect the greatest risk of cross-contamination of ruminant feed with ruminant protein.

(ii) The new test showed provisional positive results for two mills. The detailed evidence implicates a contaminated ingredient in one case, and suggests a possible cross-contamination in the other. (Both mills have altered their arrangements and particular products which had been positive under the old arrangements are now negative).'

248. The Permanent Secretary also pointed out that 'a number of significant improvements in the rules have been introduced in the past year'. These were the introduction of ELISA, impending new EU rendering standards and the consultation exercise on tightening up the handling of SBOs, and he continued, 'I doubt if anything more is needed'.³¹⁸
249. He noted in conclusion that 'one experiment has shown that 0.5gm of infected raw cow's brain fed to sheep will cause "BSE". There is however a lot of difference between raw brain from clinically infected cattle and meat and bone meal since all clinical BSE cases are incinerated, all brains from cattle over six months of age are classified as specified bovine offal and cannot be used for human or animal feed or spread as fertilisers and meat and bone meal has by definition been rendered'.³¹⁹
250. On 9 December 1994, Mr Meldrum, Mr Cawthorne and others attended a meeting with representatives of UKRA to discuss the proposed changes to the SBO controls.³²⁰ The UKRA representatives were content with proposals for staining of SBO with Patent Blue and also with requiring separation of SBO from non-SBO material. There were concerns, however, that this should not extend to requiring use of dedicated vehicles as opposed to single compartmentalised vehicles on the grounds of cost. They were not happy with the possibility of seals being introduced for loads of SBOs; this was an idea put forward by Mr Taylor, seals being applied to loads on despatch and broken on delivery, with movement permits recording the seal number. There were no objections raised to the proposal of replacing movement permits with an obligation to record weights/volumes of SBO despatched and received. Representatives were also content with proposals to approve rendering plants. There followed a

³¹⁶ YB94/12.2/1.2 at para 5

³¹⁷ YB94/12.2/1.2 at para 6

³¹⁸ YB94/12.2/1.3 at para 8

³¹⁹ YB94/12.2/1.3 at para 9

³²⁰ YB 94/12.12/5.1-5.4

discussion of the possibility of requiring dedicated lines or plants for the processing of SBO material. Several points against such action were put forward. Dr Cawthorne felt that in light of the readiness with which some of the proposals had been accepted by UKRA, MAFF should not require dedicated processing of SBO and the use of seals for the time being.

251. On 15 December 1994, Mr Meldrum minuted Dr Cawthorne regarding a recent meeting between MAFF officials and representatives of UKRA.³²¹ Mr Meldrum said that he remained adamant that ‘we must have a watertight system for the separation, staining and processing of SBOs that does not put the cattle industry at risk’. He recognised that some of the proposals could cause some inconvenience and additional cost to the industry, but noted that ‘our objective is to reduce the exposure of cattle to the agent of BSE to negligible proportions and thereby ensure that the disease is eradicated from the UK’. He also indicated his support for the use of seals on SBO containers in transit and for processing of SBOs in dedicated plants.³²²
252. From late 1994 the feed industry received information from MAFF to suggest that first 10g and then 1g of infective material might be sufficient to transmit the disease. On 30 November 1994, UKASTA was informed that as little as 0.5g of infected cow’s brain transmitted BSE to sheep.³²³

Events in 1995

253. On 9 January 1995, the results of the consultation process on proposed changes for the collection and handling of SBOs were assembled by Dr R Cawthorne and submitted to Mrs Ratcliffe, PS/Parliamentary Secretary, for Ministerial agreement ‘to legislative changes aimed at strengthening existing controls’.³²⁴ The submission was copied widely within MAFF, and to the Territorial Departments and the Department of Health. Of the 70 or so organisations consulted, 30 replies had been received with a wide range of responses. The submission stated that ‘(t)here was almost universal support for the proposal to remove the option of sterilisation and general support for the proposal that all SBO should be stained with a distinctive dye that would survive rendering and be detectable in meat and bone meal.’³²⁵ The Parliamentary Secretary was requested to agree that the legislation be drafted:³²⁶

‘(a) withdrawing the option of sterilising SBO at the place of its removal and requiring SBO to be stained with the dye Patent Blue V ...;

³²¹ S Meldrum 184A para F1342

³²² S. Meldrum 184A, para.F134

³²³ YB 94/12.2/1.1-1.3

³²⁴ YB95/1.9/1.1

³²⁵ YB95/1.9/1.4

³²⁶ YB95/1.9/1.11-1.12

(b) requiring the separation of SBO throughout the collection and disposal chain and for any mixed material to be regarded as SBO ...;

(c) requiring slaughterhouses, collection centres, rendering plants and all those handling SBO to keep records of the weights of SBO handled, its place of origin and intended destination, and keep those records for two years ...;

(d) removing the existing requirement for movements of SBO to be covered by movement permits or accompanied by consignment notes ...;

(e) requiring collection points to be approved for that purpose by Agricultural Departments ...;

(f) requiring rendering plants wishing to process SBO to be approved for this purpose by Agriculture Departments on condition they can ...

i) meet EU standards for processing ruminant material;

ii) have facilities dedicated solely to the processing of SBO and which allow the materials and the products resulting from it (meat & bone meal and tallow) to be kept separate from other meals and tallows at all times, ...;

(g) prohibiting the use of SBO tallow in animal feed until after it has been processed by the oleochemical industry ...;

(h) allowing slaughterhouses, cutting plants, knackers' yards, hunt kennels etc the option of sending SBO direct to an incineration plant for destruction, such movements being controlled by Agriculture Departments ...;'

254. Dr Cawthorne's submission set out the potential impact of the requirement for dedicated rendering lines as follows: 'Four rendering companies, who between them process 80% of all the SBO produced in Great Britain, would install dedicated lines if Ministers decided this was necessary: others could, given time, though they would have to decide whether this was financially worthwhile . . . The cost of installing new equipment is estimated at between £100,000 to £750,000 per plant . . .'³²⁷

255. It was also recommended that industry organisations should be consulted on early amendments to the Bovine Offal (Prohibition) Regulations 1989 as amended and the Bovine Offal (Prohibition) (Scotland) Regulations 1990 as amended, so as to make it a legal requirement to stain SBO at the place of its removal with the dye Patent Blue.³²⁸

256. On 17 January 1995 Baroness Denton wrote to Mrs Browning to confirm that Northern Ireland would prefer:³²⁹

³²⁷ YB95/1.9/1.6-1.7

³²⁸ YB95/1/9/1.12

³²⁹ YB95/1.17/3.1

‘to proceed with the uncontroversial proposed changes now but to have further discussions with our respective industries on the separate processing facilities. I think we need much clearer assessment of the practical and economic consequences of this proposal before committing ourselves to making it a legal requirement’.

257. On 20 January 1995, Mrs Ratcliffe, PS/Mrs Browning minuted Dr Cawthorne regarding a meeting which had taken place the previous day to discuss proposed changes to the controls for the collection and disposal of specified bovine offal.³³⁰ The minute was copied to Mr Carden, Mr Meldrum, Mr Haddon, Mr Crawford, Mr K Taylor, Mr Baker and others. Mrs Ratcliffe reported that at that meeting Mr Meldrum had explained that the further measures that were proposed were necessary to make the separation of SBO more enforceable. She stated:³³¹

‘He was convinced that there was some accidental ‘leakage’ of SBO into non-SBO material, and hence into cattle feed. There had also been some evidence in the past year that the rules were not always followed. Action had already been taken on this, for example by increasing checking, but it was not possible to be there all the time. Contamination of ruminant feed with SBO-derived material had obvious implications for animal health. Mr Taylor noted that half of all BSE cases now appeared in animals which had been born after the ruminant feed ban.

Staining using the new dye could be rapidly implemented to ensure that SBO-derived products were identifiable as such. However, from the point of view of enforcement, the best way forward was to require separate lines to be used for SBO and non SBO material. It was essential to keep potentially infected material out of the feed, since comparatively small volumes of brain tissues could cause infection.’

258. Mrs Browning subsequently met Baroness Denton to discuss the issue of separate rendering lines. Lady Denton was accompanied by the NI CVO who argued that ‘it would be necessary to allow sufficient time for operators to buy and install new equipment’. The note of the meeting records that Dr Cawthorne now proposed that the requirement for separate rendering lines should be implemented ‘in May/June’, which, in the view of the NI CVO, ‘seemed rather early’. The meeting concluded that Baroness Denton should meet Northern Ireland renderers before decisions were announced and that ‘MAFF would await confirmation of the outcome of the meeting before proceeding further’.³³²

259. The problem of BABs and cross-contamination was discussed by SEAC at its meeting on 10 February 1995.³³³ SEAC was very concerned that cross-contamination appeared to be the main reason for continuing cases of

³³⁰ YB95/1.20/1.1-1.2

³³¹ YB95/1.20/1.1

³³² YB95/2.3/1.1

³³³ YB 95/2.10/1.1-1.11

BABs. It urged the development of the ELISA test for use on a large number of field samples.

260. On 28 February 1995, Mr Meldrum minuted Mr Packer regarding recent research findings.³³⁴ With regard to the attack rate study, Mr Meldrum reported:³³⁵

‘... it is becoming clear that calves in all groups are succumbing with little difference in incubation period. This indicates that the amount of unprocessed brain needed to cause the disease is very small, and that the study may need to be repeated using smaller doses in order to determine the minimum infectious dose. The findings may help to explain why the feed ban was less effective than intended, and they will certainly cause UKASTA some uneasiness. This supports our view that we should tighten up our controls on the disposal of the specified bovine offals; an issue we have discussed with Ministers.’

261. The minute also dealt with a comparison of the infectivity of tissues using cattle and mice. In this respect Mr Meldrum stated:³³⁶

‘The Secretary will recall that there has been criticism by Professor Lacey and others that bioassay of cattle tissues in mice is not as sensitive as bioassay in cattle, because of the effect of the species barrier. We have tested a narrow range of tissues in both mice and cattle to try to compare the sensitivities of the two systems. The preliminary results suggest that the mouse is not so sensitive to BSE as cattle but we cannot yet quantify the difference. That can only be done when the experiment is more advanced. However some would argue on that basis that some bovine tissues that have tested negative through mice are not necessarily negative. This underlines the importance of our cautionary specified offal ban.’

262. The next set of returns under AHC 94/106 was summarised by Mr Simmons in his minute of 2 March 1995.³³⁷ Mr Simmons stated:

‘I believe that, in general, the disposal of SBO has improved at all stages and that provided our current input is maintained, further improvements can be made. However...I remain concerned about head boning plants.’

263. The summary reported that 348 slaughterhouses were visited, of which only 10 were reported as showing deficiencies. These related to absence of movement permits, inadequate staining and poor separation. In each case, the reports either indicated prompt resolution or that the problem had been taken up with the relevant local authority.

264. In respect of head boning plants, the summary stated that information derived from returns under AHC94/150 indicated that on current

³³⁴ YB95/2.28/1.1-1.5

³³⁵ YB95/2.28/1.2

³³⁶ YB95/2.28/1.3

³³⁷ YB95/3.2/1.1

information it appeared that 60% of the heads from the weekly national kill were processed in 10 plants. Mr Simmons observed:³³⁸

‘Given the concentration and amounts of potentially infected material that these premises produce, there is a good case for close and regular supervision. Most head boning plants are licensed cutting premises and will be supervised by the MHS. However, in some cases, supervisory input by the MHS may be as little as 1 hour per month. Given that most, if not all, of this time will be directed at hygiene, this input is inadequate to ensure proper disposal of SBO.’

265. The returns from rendering plants and collection centres indicated that operators appeared to be complying with the relevant legislation.

266. In his written evidence to the BSE Inquiry, Mr Meldrum explained the concern that arose in his mind, following receipt of the results from the attack rate study, which led him to take action on 7 March 1995 to introduce supervision of the disposal of bovine heads:³³⁹

‘Having considered Mr Simmons’ recommendations and in light of the recent results from the attack rate study indicating that the amount of unprocessed brain needed to cause disease was very small (see paragraph 135 of Section E), I decided that all head boning plants should be visited by MHS staff on a weekly basis to supervise the disposal of bovine heads (see minute dated 7th March, 1995 from Dr Cawthorne to Mr Gregg). (YB 95/3.7/2.1) In addition, I wanted a further change to the SBO controls to be implemented to ban the removal of the brain from skulls, requiring bovine heads (other than tongue and cheek meat) to be treated as brain which, of course, was a SBO. This was suggested because of the difficulty in ensuring that all brain material had been removed from the skull before the latter was processed to produce meat and bone meal intended for use as feed for pigs and poultry. Mr Eddy suggested that SEAC should be asked to advise on this issue and I agreed that this should be done as well as advising the DH of our intentions. However, I did not feel that this needed to delay implementation of the legislation introducing the changes to the SBO controls.’

267. In his oral evidence to the Inquiry, Mr Scott, General Secretary of the Federation of Fresh Meat Wholesalers, stated:³⁴⁰

‘There was a watershed which I think is evidenced, certainly in the papers I have read, that in early to mid-1995 there were two major shifts in the perception of how BSE should be regarded. One was the increasing seriousness with which the risk of specified bovine offals was treated. And the other was the amount of infective material which would be necessary to create the disease. That second one was a very serious shock to industry.’

2.

³³⁸ YB95/3.2/1.2

³³⁹ S Meldrum 184A para F143

³⁴⁰ T58, p.118

3. The other witnesses who appeared with Mr Scott agreed with this view.³⁴¹
268. On 24 March 1995, a new Animal Health Circular (AHC 95/40) was produced advising that the Bovine Offal Prohibition (Amendments) Regulations 1995 would come into effect on 1 April 1995.³⁴² The new regulations provided for the transfer of enforcement responsibility in respect of SBO at slaughterhouses and head boning plants to the new National Meat Hygiene Service. The new service would also be responsible for the day to day checks on SBO disposal at these sites.
269. The new regulations also required that SBO be stained with a new distinctive food colour, Patent Blue V, instead of Black PN. The staining requirements in the new regulations would also apply to SBO originating at knackers' yards and hunt kennels. The covering letter sent out with the Animal Health Circular stated that the SVS officers must as a first priority visit all slaughterhouses and head boning plants in their area at which SBO may be expected to arise. They should explain the requirements of the new regulations and ensure the new stain is brought into use without undue delay. As a second priority, SVS staff were required to visit all knackers' yards and hunt kennels to ensure the same awareness and compliance with the new regulations as at slaughterhouses.
270. Additionally, SVS visits to head boning plants were increased to once monthly and SVS staff were assigned new checks during their visits to premises handling SBO. Responsibility for auditing and directing SVS activity on SBO had passed to the SVO (Protein Processing) Tolworth to whom all inquiries were, thereafter, to be addressed.
271. On 31 March 1995, a submission prepared by the Meat Hygiene Division was put forward to the Permanent Secretary regarding the removal of bovine brain from the skull.³⁴³ It noted the results of the attack rate study and experiments in progress on eye tissue. Although results from the latter were not yet available, it was considered prudent to include eyes in the SBO ban when the rules on skulls were being reviewed, in case there was a positive result. It was noted that the issue of a ban on bovine eyes might give rise to criticism, particularly since when the issue had been considered previously, it had been decided that there was no need for a statutory ban as the industry had advised that eyes were not used in the production of food for human consumption. The Minister was invited to agree a ban on the removal of brains and eyes from bovine heads and that SEAC should be notified. As this was a tightening up of the controls, it was not considered necessary to seek advice from SEAC. The Permanent Secretary forwarded the submission to the Minister on the same day and

³⁴¹ T58, p.118

³⁴² YB95/3.24/1.1

³⁴³ YB 95/3.31/4.1-4.5

indicated that he supported the recommendation.³⁴⁴ The Minister also agreed with the recommendations in the submission on bovine brains and eyes and commented that ‘this is an important issue on which we shall need to act swiftly’.³⁴⁵

272. The Bovine Offal (Prohibition) (Amendment) Regulations 1995 came into force on 1 April.³⁴⁶
273. The MHS was launched as an Executive Agency of MAFF on 1 April 1995. It took over responsibility from local authorities for meat inspection, supervision of licensed fresh meat premises and enforcement of the legislation relating to meat hygiene, BSE/SBO controls and animal welfare in these premises.³⁴⁷
274. In his statement to the BSE Inquiry, Mr Soul said that, 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 undertaken by ‘Hygiene Advice Teams’ or ‘HATs’. Teams of experienced Official Veterinary Surgeons 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.³⁴⁸
275. Mr Swann, an OVS who led a hygiene advice team in visiting red meat slaughterhouses, explained in his statement to the Inquiry that a format for the audit was provided (HAT 1-4). HAT 1 gave details of the meat plants through-put. HAT 2 was a detailed check list of hygiene and welfare standards indicators. HAT 3 was a written report which included recommendations for improvements and standards. HAT 1-3 were sent to MHS Headquarters and to the meat plant operator in question. HAT 4 was a confidential report to MHS Head of Operations, which commented on the meat inspection requirements of the plant as well as on the effectiveness of the inspection team. HAT visits were announced, but commenced before the meat plant start up, usually between 4-6 am. Audits took from 6-22 hours depending on plant shutdown times.³⁴⁹
276. In his statement to the Inquiry, Mr Swann recorded that the HATs had found deficiencies in SBO control.³⁵⁰ Specifically, incomplete removal of spinal cord, failure to remove thymus, failure to separate spleen, failure to stain SBO, failure to mark SBO containers, deficiencies in paper work and failure to remove SBO spillage from abattoir floors were all noted. More

³⁴⁴ YB95/03.31/10.1-10.2

³⁴⁵ YB95/04.05/5.1; para 87 Statement 299

³⁴⁶ L2, Tab 3B

³⁴⁷ Statement 88, para.4.4.1

³⁴⁸ S 088 Soul para 4.5.7 – 4.5.8

³⁴⁹ S 158 Swann para 11

³⁵⁰ S 158 Swann para 14 et seq

than 40% of all plants showed some degree of non compliance with SBO regulations.³⁵¹

277. Mr Swann further recorded that the HAT exercise had found deficiencies in the ability of some regulating staff to recognise irregularities in SBO control.³⁵² Some OVSs were unable to identify bovine thymus and some MHIs were not aware of the importance of complete removal of spinal cord. The HATs also noted the following reasons for non-compliance with SBO controls:

- (i.) Physical reasons – some plants were designed in such a way that removal of SBO was difficult. This specifically applied to spinal cord removal where inability to reach the caudal section of the spine resulted in retention of 4-6 inches of spinal cord in the lumber area.
- (ii.) Production speed – the speed of operation resulted in carelessness in disposal of SBO. Large quantities of SBO were seen on the abattoir floor where the bins were misplaced or not emptied regularly.
- (iii.) Culture – many plant operators were convinced that BSE was a disease of cattle only, and that controls were of benefit to the farming community only. Resentment at the cost of SBO controls was widespread. The veterinary staff at meat plants were invariably of the opinion that BSE would be restricted to livestock, consequently SBO regulations were not always taken seriously.

278. In his evidence, Mr Soul stated that 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). Mr Soul stated that the 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. The cultural change was to be 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.³⁵³

279. On 2 May 1995, Mr Hewson, SMHA in MAFF's Meat Hygiene Veterinary Section minuted Mr Corrigan of the MHS, regarding information received that the majority of SBO was arriving unstained at rendering plants. The minute was copied to Mr Meldrum, Mr Baker, Dr Cawthorne, Mr Fleetwood and Mr Penny. Mr Hewson stated that it was

³⁵¹ Statement 158 para 14

³⁵² Statement 158 para 18

³⁵³ S Soul paras. 4.4.3 – 4.4.5

clear that local authorities were not implementing the staining requirements of the SBO regulations with the diligence that would have been expected. In many instances they appeared not to have been insisting SBO was stained and were not making following up enquiries when unstained SBO was received at its final destination. Mr Hewson suggested that the situation might have worsened since the old black dye was replaced by the more expensive Patent Blue V. Mr Hewson asked that MHC staff be urgently reminded of their responsibilities as comprehensively set out in chapter 10 of the MHS Operations Manual. He added that Mr Corrigan might wish to remind MHS staff that it was not their responsibility to do the staining themselves, as was understood to be happening at some premises.³⁵⁴

280. On 3 May 1995, Mr Fleetwood sent a minute to Mr Meldrum, with copies to Mr Haddon, Mr Crawford, Mr K Taylor, Mr Baker, Mr Eddy and Mrs Brown, concerning information from the rendering industry which suggested that not all SBO arriving at rendering plants was stained with the Patent Blue V dye.³⁵⁵ Some appeared to be unstained, some fully stained and some stained with an inappropriate colour. In addition, some material that was not SBO was being stained with the Patent Blue V dye. Mr Fleetwood stated that ‘the allegations appear to suggest that local authorities have taken a lackadaisical approach to enforcement in recent times.’
281. On the same day, Mr Fleetwood minuted Dr Cawthorne, Mr K Taylor, Mr Baker, Mr Eddy, Mrs Brown, Mr Lackenby and Mr Simmons setting out in full the details of allegations about the non staining of SBO arriving at abattoirs.³⁵⁶ He explained that he had received a telephone call from the renderers, Prosper de Mulder, on Friday 28 April. In that call, the company had said that almost all of the SBO arriving at their plant for processing was unstained. As this plant processed approximately 60-70% of the national SBO, this caused some concern. By coincidence, staff from the Animal Health Office had been in the rendering plant concerned under Mr Fleetwood’s instructions, examining raw material and taking samples of greaves to be tested for the SBO stain. The plant operators alleged that they had only received two consignments of SBO stained with the patent blue V since the regulations had come into force on 1 April, and that attempts by their buyers to ask for staining of SBO had been met with outright rejection. The staff from the Animal Health Office were able to confirm that during their visit they saw no evidence of SBO arriving stained with patent blue V, although they considered it possible that some had been stained with the black PN stain. However, this decomposed from SBO within two days and the staff were therefore unable to decide one way or the other.

³⁵⁴ YB95/5.2/1.1

³⁵⁵ YB95/5.3/3.1

³⁵⁶ YB95/5.3/4.1

282. Mr Fleetwood's minute recorded that Peter Lackenby had made inquiries of the manufactures of Patent Blue V. They were able to confirm that they had stocks available for immediate delivery, and that although some of them had received several enquiries from the operators of slaughterhouses, few orders for stain had been placed. From this Mr Fleetwood concluded that non availability of stain was not an explanation for failure on the part of slaughterhouses to use it.
283. Mr Fleetwood said that he could not speak for what had gone on in the past, but current evidence seemed to suggest that SBO was not being stained as it should be. He went on to say, that the problem seemed to be worse with the suppliers to de Mulders, which might have had something to do with their gut room contracts. However, the problems had not yet been detected by SVS staff, who continued to report that all was well. Mr Fleetwood commented that he found this puzzling, but had a feeling that although staff were shown one thing when they visited the premises, something quite different might happen the moment they left. There might also, he suggested, be an element of failure on their part to get on to the cutting room floor, and really look at things in detail. Mr Fleetwood suggested that consideration be given to whether SVS staff should separately investigate the position of slaughterhouses and head boning plants by advancing and enhancing their programme of regular visits. To this end, he had drafted an AHC for discussion with senior staff.
284. On 4 May 1995, Mr Crawford minuted Mr Fleetwood expressing surprise that there was a significant problem of SVO arriving unstained at rendering plants, and asking whether there was any way of assessing the extent of the problem.³⁵⁷ The minute was copied to Mr Meldrum, Mr Haddon, Mr Taylor, Mr Baker, Mr Eddy and Mrs Brown. Mr Crawford's concern arose from the fact that SVS staff had been required to visit abattoirs and head boning plants every two months in order to inspect procedures for handling SBO material. Those reports had not revealed the problem that was the subject of Mr Fleetwood's earlier note, and Mr Crawford pointed out that Mr Fleetwood's minute appeared to be contrary to the findings of SVS staff. He asked whether the difficulties in staining might be due to the fact that local authorities no longer provided the service of staining and whether they were now seeing a reluctance by the plant operatives to provide and use the stain.
285. Mr Fleetwood responded to Mr Crawford on 5 May 1995 reiterating what he had said in previous minutes.³⁵⁸ In addition to those copied in on Mr Crawford's minute, Mr Fleetwood added Dr Cawthorne. Mr Fleetwood stated:

'(Y)ou ask why we have had no indication of problems from field staff and ... whether the introduction of MHS may have had an effect. It is possible that the problem with staining is a new phenomenon in which case reports

³⁵⁷ YB95/5.4/1.1

³⁵⁸ YB95/5.5/2.1

would not have started to filter through from the field. Possible reasons may include the fact that there are no longer tame LA meat inspectors to apply stain, and that the plant operators have to purchase a new stain (which is not more expensive than the old one). However, I suspect that at least some of the problem is of longer standing duration in which case the lack of reported problems from the field is puzzling. I suspect that the explanation is that although the staff are shown one thing when they visit a premises, something quite different happens the moment they leave. We are addressing this problem by enhancing the checks that SVS staff make when they visit the premises and by making the checks at rendering plants which triggered this issue.’

286. On 5 May 1995, Mr Eddy put a submission to the Parliamentary Secretary with the consultation letter on the proposed changes to the Specified Bovine Offals Rules.³⁵⁹ Mr Eddy stated that:

‘We are particularly anxious to introduce these changes as soon as possible because of the research results on the infectivity of very small doses of BSE which make it important that we remove any risk from material being left behind in skulls...The Secretary will wish to note that we have proposed only a three week consultation. This is because of the need to get these new controls in place quickly.’

287. The Parliamentary Secretary responded ‘very quickly’ that she was ‘happy with his (Mr Eddy’s) proposed presentation of the issues and that he should send out the consultation document as early as possible’³⁶⁰

288. On 9 May 1995, the consultation letter regarding changes to the controls for the collection and disposal of specified offal, was distributed to all relevant parties.³⁶¹

289. On 10 May 1995, Mr Corrigan, Head of Operations at the MHS, wrote to inspection staff regarding ‘information received’ indicating that the majority of SBO was arriving at rendering plants unstained.³⁶² The note confirmed that ensuring proper staining was now the responsibility of the MHS, but that it was not the responsibility of inspectors to apply stain. The note also gave details of the companies which were supplying Patent Blue V dye.

290. On 17 May 1995, Dr Cawthorne wrote to Mr Corrigan about the problem of failure to stain SBO emanating from slaughterhouses and head boning plants.³⁶³ The letter noted that further inquiries by SVS staff had confirmed that the bulk of SBO was arriving at rendering plants unstained, inadequately stained or stained with the wrong dye. The SVS were now beginning to report similar problems at slaughterhouses and head boning

³⁵⁹ YB95/5.5/3.1

³⁶⁰ Statement 300, para 23

³⁶¹ YB95/5.9/3.1

³⁶² YB95/6.26/1.1

³⁶³ YB95/5.17/1.1

plants. The letter explained that the proper separation and disposal of SBO was a key component of the Government's measures for the control of BSE. It was noted that Dr Cawthorne had asked SVS staff to bring forward the date of their next visit to slaughterhouses and head boning plants. They were instructed, if they noticed any shortcomings, to notify the Official Veterinary Surgeon in writing, copying the letter to his or her regional manager. The letter stated that:

'Naturally, SVS staff will not interfere directly in the operation of the plant as this is properly the responsibility of MHS staff where problems are encountered, however, SVS staff will make a second unannounced visit in the following two weeks. If problems are still encountered, the MHS will be asked to consider taking a prosecution.'³⁶⁴

291. On 19 May 1995, an Animal Health Circular (AHC 95/74) was sent out, dealing with improper separation and staining of specified bovine offals.³⁶⁵ The AHC said that a programme of regular visits to slaughterhouses and head boning plants provided for by Inset 25, section F, was to be supplemented by a period of national surveillance of all slaughterhouses and head boning plants handling SBO. Every slaughterhouse and head boning plant known to handle bovine material was to receive an unannounced visit between 31 May and 23 June, even if the plant had only recently received a routine visit. Each visit was to be undertaken by a VO, preferably accompanied by the AHO responsible for ongoing routine visits to that premise. The AHC required that at each visit the VO should tour the premises, in the company of the Official Veterinary Surgeon, if he or she was present, and examine all aspects of the separation and staining of SBO, making checks as described in the new AHC insert. In addition, they were to check for the following:
- (i.) that the plant possessed stocks of Patent Blue V and that it was being applied adequately and at the correct concentration, by a member of the plant's staff;
 - (ii.) that any SBO in storage awaiting transport had been stained properly. This would give an indication of the quality of staining in the hours proceeding the visit;
 - (iii.) that Patent Blue V was only used to stain material that was SBO or was being mixed with SBO.
292. Any premises at which it was found that SBO was not being separated or stained correctly was to receive a second unannounced visit by SVS staff, approximately 2 weeks later. If defects were still found, a further letter was to be written to the OVS recommending that the MHS consider a prosecution of the plant operators.
293. On 24 May 1995, Dr Cawthorne minuted Mr Hewson and Mr Fleetwood regarding a recent meeting with Mr Meldrum to discuss whether skulls and

³⁶⁴ YB 95/5.17/1.2

³⁶⁵ YB95/5.19/1.1

vertebrae should be excluded from the production of gelatin destined for use in ruminant feed rations.³⁶⁶ Dr Cawthorne reported that Mr Meldrum was anxious to ensure that spinal cord was properly removed from vertebrae during the slaughtering process, that meat inspectors should take particular note of this operation and prevent carcasses/parts of the carcass in which spinal cord was still in evidence in the vertebral column from entering the human/animal food chain. The amendment to AHC 95/74, which was being prepared by Mr Fleetwood, required that in the course of their unannounced visits SVS staff should take particular note of whether spinal cord was being properly removed, and emphasised the need to ensure that all MHS staff understood the need for this to be carried out completely.

294. On 31 May 1995, Mrs Sadowski minuted Ms Heron of the Legal Division regarding requests from two councils for clarification on the scope of the Bovine Offal (Prohibition) Regulations 1989.³⁶⁷ The councils wished to know whether there was a requirement for SBO in knackers' yards and hunt kennels to be stained with the new blue stain and accompanied by a movement permit when moved. The minute reflected that the position continued to be complicated by the definition of premises referred to at regulation 12, which specifically excluded knackers' yards. In addition, the councils had raised the point that the 1989 Regulations defined SBO as deriving from a slaughtered animal, whereas hunt kennels took mainly fallen stock.
295. On 2 June 1995, Mr Hewson wrote to Mr Corrigan about the measures that could be taken to ensure that spinal cords were properly removed from the vertebral column of beef carcasses.³⁶⁸ Mr Hewson recognised that MHIs were ideally placed to check on proper removal of spinal cord, as the Fresh Meat (Hygiene and Inspection) Regulations 1995 required a carcass inspection after carcass splitting. However, Mr Hewson did not believe that the same regulations could be used to withhold the health mark from carcasses which were shown to have some spinal cord remaining. He believed that MHIs should draw any incomplete removal to the attention of the plant operator, and ensure that the carcass did not leave the premises without proper removal of the spinal cord being carried out.
296. On 5 June 1995, Mr Corrigan sent a minute to all MHIs and OVSs drawing their attention to the relevant provisions of the Bovine Offal (Prohibition) Regulations 1989 and emphasising that MHIs should draw any incomplete removal of the spinal cord to the attention of the operator, and ensure that the carcass did not leave the premises without proper removal of the spinal cord.³⁶⁹

³⁶⁶ YB95/5.24/1.1

³⁶⁷ YB95/5.31/1.1

³⁶⁸ YB95/6.2/1.1

³⁶⁹ YB95/6.26/1.3

297. On 12 June 1995, Mr Meldrum received a letter from Peter Carrigan, a consultant to the meat industry, regarding perceived gaps in the legislation controlling SBO.³⁷⁰ Mr Carrigan stated:
- ‘Put simply, people have cheated, and will continue to do so, because the legislation, updated though it may be, has gaps in it large enough to accommodate a horse and cart. Because of that SBO will still be included in ‘meal’ and the cycle remains unbroken.’
298. In his letter, Mr Carrigan described practices which might be employed by ‘unscrupulous’ abattoirs in order to evade the weight calculations designed to ensure, very approximately, that the correct amount of SBO material was being removed from slaughterhouses. He commented that the remaining mesenteric fat (left after the necessary weight of SBO had been made up by unscrupulous methods) could be sold on the ‘black market’, thus defeating the system aimed at preventing SBO getting into the feed chain.
299. On 12 June 1995, Mr Eddy minuted the Parliamentary Secretary regarding concerns expressed Mr Meldrum about the possibility that there could be a loophole allowing SBO to enter the food chain for animals through knackers’ yards and hunt kennels.³⁷¹ Copies of the minute were provided to MAFF Ministers, Mr Carden, Mr Meldrum, Mr Haddon, Mr K Taylor, Mr Baker, Dr Cawthorne and Mrs Brown amongst others. In particular, Mr Meldrum was concerned about the adequacy of the removal of spinal cord from the vertebral column. The minute records that the spinal cord in animals over 6 months of age was an SBO and indeed the cervical spinal cord was one of the few tissues taken from clinically affected cattle in which BSE infectivity had been demonstrated. Mr Eddy stated that it was therefore important to ensure that none of this material could enter the food chain. Mr Eddy stated that in slaughterhouses MAFF were reasonably confident that the spinal cord was properly removed. The Meat Hygiene Service had clear instructions to give priority to ensuring that this was done. In knackers’ yards and hunt kennels there was no routine presence and the main oversight was from a monthly visit from the State Veterinary Service. Mr Eddy explained that there was often difficulty in removing the tissues from animals if they had been dead for some time and had been allowed to decay. Mr Eddy stated that on balance, therefore, Mr Meldrum felt that it was necessary to extend the prohibition on skulls to a prohibition on the splitting of the vertebral column and removal of the spinal cord in animals being processed in hunt kennels or knackers’ yards.
300. On 14 June 1995, Ms Heron of MAFF’s Legal Division minuted Mrs Sadowski.³⁷² With regard to the question whether knackers’ yards were covered by the Bovine Offal Prohibition Regulations, Ms Heron stated that ‘I think the most we could say is that we would hope that as a matter of

³⁷⁰ YB95/6.12/1.2

³⁷¹ YB95/6.12/2.1

³⁷² YB95/6.14/1.1

good practice the regulations are observed in knackers' yards'. She also agreed that the requirement that animals to which the regulations were referred were slaughtered should be amended by the addition of the words, 'or died'.

301. On 16 June 1995, Mr K Taylor minuted Mr Meldrum regarding his visit with Mr Bradley and Mr Simmons to a head boning plant.³⁷³ The visit was intended to assess the practicality of adopting a suggestion received in the course of the consultation, that removal of the front part of the skull be permitted in order to reduce the weight of the material which had to be treated as SBO. Having observed the skulls being cut in various places with a band saw, they were satisfied that the operation could be carried out without risk by making a single transverse cut starting not more than 1 inch behind the back molars and passing at least half an inch in front of the anterior rim of both orbits. This resulted in a 30% reduction of the weight. They were not, however, convinced that the procedure would be carried out satisfactorily without surveillance in every plant. They therefore suggested that plants should be licensed after a satisfactory veterinary assessment to carry out the operation and subject to regular unannounced inspections thereafter.
302. On 20 June 1995 Mr Anderson of the SOAEFD Meat Hygiene Branch, sent a letter to all interested organisations regarding changes to the controls for the collection and disposal of specified bovine offal.³⁷⁴ The letter stressed the importance of ensuring that spinal cord and in particular cervical spinal cord be properly removed so as to ensure that no such material could enter the food chain. The letter gave notice that it was now proposed that, as well as the prohibition on removing brain from skulls, the draft Specified Bovine Offal Order would include a prohibition on splitting of the vertebral column and removal of the spinal cord from bovine animals processed in hunt kennels or knackers' yards or in any place other than a slaughterhouse.
303. On 20 June 1995, Mr Corrigan sent an MHS Information Note to all staff advising that the HAT visits had identified failures in the controls on the disposal of SBO and in respect of BSE certification. The note further stated that:³⁷⁵
- 'It is imperative that plant based MHS personnel (in particular OVSs and SMHIs) liaise closely with plant management to ensure that all aspects of the detailed SBO disposal and BSE certification requirements as outlined in the Operations Manual are fully understood and implemented.'
304. On 21 June 1995, Mr Eddy, Dr Wight and Mr Lister attended the nineteenth meeting of SEAC.³⁷⁶ Mr Eddy told the Committee that first

³⁷³ YB95/6.16/2.1

³⁷⁴ YB95/6.20/1.1

³⁷⁵ YB95/6.26/1.2

³⁷⁶ YB 95/6.21/2.1-2.9

reports from the audit of the MHS showed problems with SBO separation and that less than half the premises were staining properly. The Committee were very concerned and felt that action should be taken as a matter of the highest priority. In discussion of the use of gelatin and blood in blood products in ruminant feedingstuffs, Dr Kimberlin stressed that the issue was really about SBO. He stated that 'there should be no concern about gelatin, but the logic hinged on the proper removal of SBOs. If this was not being done satisfactorily, there was a risk'. Later, in discussing MRM, Dr Tyrrell noted that the key question was once again how effectively the SBO controls were being carried out. Dr Watson pointed out that the impact of prohibiting the use of spinal columns on the industry would be enormous. Dr Tyrrell concluded that, provided that in the slaughtering process the removal of the spinal cord was done properly, the MRM process was safe and there was no reason for the Committee to change its advice.

305. In his minute of 26 June 1995 to Mr Taylor, Dr Cawthorne discussed the response to Mr Carrigan's letter of 12 June 1995.³⁷⁷ He stated:

'In replying, the problem is whether we ignore Mr Carrigan's suggestion that we flush all bovine intestines, possibly leaving him to criticise us at a later date for not heeding his words or tackle the issue head on by saying we don't see the need at this time. I have chosen the latter course to minimise the chance of him coming back.'

306. However, Dr Cawthorne recognised that Mr Carrigan had a good point, and said that he had considered a number of measures which could be built into SVS/MHS standing instructions to counter the possibility of fraud. The suggestions were as follows:

- (i.) check the non-SBO skip at slaughterhouses to ensure that no unstained bovine guts were present,
- (ii.) inspect the SBO skip at slaughterhouses to check on staining and the extent to which guts were flushed or full,
- (iii.) check for unstained bovine intestines in the non-SBO intake pits at rendering plants.

307. Dr Cawthorne's minute ended:

'It goes without saying that we rely heavily on MHS staff to police the regulations in slaughterhouses. If we can't rely on them to enforce them and be alert to fraud, we will never get on top of the problem. I did not want to disclose these thoughts to Carrigan.'

308. On 27 June 1995, Dr Kimberlin wrote to Mr Eddy in his capacity as an independent MAFF consultant rather than as a member of SEAC.³⁷⁸ Dr Kimberlin's letter made his own suggestions for improving the monitoring

³⁷⁷ YB95/6.26/3.1-3.2

³⁷⁸ YB95/6.27/3.1

of the SBO Regulations. Dr Kimberlin's advice was based upon the fact that the brain and spinal cord are considerably more infective than other tissues. He suggested that monitoring of the SBO Ban concentrate on the measurement of the weight of brain and spinal cord material removed from carcasses. In conclusion he said:

'Neither I, nor anyone else would find it easy to justify a relaxation of the beef trade rules, without really sound data to indicate that the SBO ban is being implemented fully. Good collection and staining records of spinal cords, the number of bovine heads, plus the combined weights of other offals would be an excellent way to address this problem.'

309. On 28 June 1995, Mr Meldrum responded to Mr Carrigan's letter of 12 June 1995.³⁷⁹ The letter placed the new auditing requirements of the SBO regulations in the context of a wider system of control. It went on to say:

'We will seek to ensure that correct removal and storage of SBO at slaughterhouses will be rigorously enforced by the Meat Hygiene Service staff, and that MAFF State Veterinary Service staff carry out regular spot checks of all other points in the collection and disposal chain to monitor compliance.'

310. Dr Kimberlin's letter of 27 June 1995 to Mr Eddy was copied to Mr Fleetwood by Dr Cawthorne. On 30 June 1995, Mr Fleetwood wrote to Dr Cawthorne saying that he believed that the proposed new SBO Order would adequately address concerns about bovine brains.³⁸⁰ With regard to the spinal cord, he noted with interest the suggestion that its removal should be audited by virtue of a separate weight tally. However, it was Mr Fleetwood's view that the removal of spinal cord was the simplest matter for the SBO Regulations to deal with. This was because the carcass would inevitably have to be inspected immediately after splitting by MHS staff, who had been instructed to ensure that all traces of spinal cord were removed.

311. On 4 July 1995, Mr Eddy minuted Dr Cawthorne about Mr Fleetwood's comments regarding the auditing of spinal cord removal.³⁸¹ Mr Eddy stressed that he felt the problem associated with spinal cord did not end at the point at which it was removed from the carcass. In his view, the public needed to be reassured about what happened to spinal cord after it had been removed. His intention was to ensure that no spinal cord could be said to have entered the animal food chain, after the removal from carcasses.

312. Also on 4 July 1995, Mr Fleetwood minuted Mr Meldrum summarising the returns from the four week period of national surveillance that had been undertaken at slaughterhouses and head boning plants between 31 May

³⁷⁹ YB95/6.28/1.1

³⁸⁰ YB95/6.30/3.1

³⁸¹ YB95/7.4/2.1

and 23 June.³⁸² The survey supported observations from the field, that significant amounts of SBO had been leaving slaughterhouses and head boning plants, either inadequately or incorrectly stained, or not stained at all. Some of the problems seemed to have arisen recently as a consequence of the requirement to change from black PN to patent blue V, but this did not seem to Mr Fleetwood an adequate explanation for those premises that were failing to stain at all. Problems of separation of SBO were slightly less widespread and it was noted that no instances of failure to separate SBO from material intended for direct human consumption had been reported. In conclusion, Mr Fleetwood stated that the overall impression of this snapshot view of the industry was that there was widespread and flagrant infringement of the regulations requiring staining of SBO. Although the problems with separation were less extensive, there were grounds for suspecting that the highest risk tissues (brain and spinal cord) had been mixed with other by-products and processed for animal consumption. He also expressed concern that some SBO might have been included in grade 2 tallow, which might have been incorporated into products subsequently used for human consumption.

313. On 6 July 1995, in the light of Mr Fleetwood's earlier report, Mr Eddy minuted Mr Meldrum expressing concern at the results.³⁸³ His minute was copied to Mr Haddon, Mr Taylor, Dr Cawthorne, Mrs Brown, Mr D Taylor, Mr Fleetwood and others. Mr Eddy identified certain problems in respect of the funding of SBO enforcement. MAFF had bid in the 1995 PES for a sum of £150,000 for the MHS to cover the costs of SBO Enforcement, but there was no allocation in the current financial year. Since this amounted to only about half an hour per month, Mr Eddy felt that it was possible that the MHS would argue that they needed more resources to be able carry out the operating instructions effectively. However, Mr Eddy went on to suggest that in targeting the MHS activity they should concentrate on a programme of education of plant operators to ensure that they understood fully the requirements of the existing legislation. Mr Eddy also suggested that it was necessary to ensure that the MHS had a clear order of priorities for enforcement of the SBO controls, paying attention first to the treatment of brains, then spinal cord, then guts. Finally, he suggested that it might also be necessary, because of public health implications, to send SVS staff into slaughterhouses every few months to audit the arrangements, at least until they were satisfied that the SBO regulations were being properly applied and enforced by the MHS.
314. Dr Cawthorne minuted Mr Eddy on 6 July 1995, copied to Mr Fleetwood and others, regarding Dr Kimberlin's suggestion for improving the SBO audit.³⁸⁴ Dr Cawthorne agreed that it was vital that brain and spinal cord were somehow singled out for particular attention. However, he was

³⁸² YB 95/07.04/3.3

³⁸³ YB95/7.6/1.1

³⁸⁴ YB95/7.6/9.1

concerned that they should not deny the requirements of legislation where intestines were concerned, and felt that greater opportunities existed to circumvent legislative controls on their disposal. He was most concerned to address the obvious fault detected in the recent survey of SBO collection and disposal in slaughterhouses through direct approaches to the MHS and follow up surveys by SVS staff.

315. On 11 July 1995, Mr Crawford minuted Mr Meldrum regarding the results of the national survey on separation and staining of SBOs.³⁸⁵ Mr Crawford expressed his concern that the picture painted in the report differed to such an extent from that painted by previous reports. It was essential that the information was made available to ADsVFS (RVOs) so that they could carry out a detailed investigation to discover why there was such a difference. This would be done as quickly as possible, but until the reports were received, it was difficult for him to make any meaningful comment. Mr Crawford suggested that one possible explanation for the difference between this and earlier reports might be that the report was based on unannounced visits by VOs, instead of AHOs. The introduction of the new stain might have had a contributory effect. Finally Mr Crawford reported that it had been suggested by field staff that the MHS staff did not appear to be fully aware of the SBO requirements. He suggested that if this were correct, MHS staff should be made aware of those requirements immediately.
316. On 11 July 1995, Dr Cawthorne wrote to all DVOs, enclosing a new AHC 95/74, about follow ups from visits to slaughterhouses where problems had been found in respect of staining or separation of SBO material.³⁸⁶
317. On 12 July 1995, Mr Eddy put two submissions to the Permanent Secretary. The first dealt with the new SBO controls implementing the proposals covered in the May 1995 submission, and the other reported on the failure of slaughterhouses to separate and stain SBO. The second submission stated that these failures had no implications for human health, as the measures to ensure that infective material did not enter the human food chain were shown to be working effectively in that survey.³⁸⁷
318. On 13 July 1995, Mr Packer sent a minute to the Minister and Parliamentary Secretary, attaching the two submissions which had been provided by Mr Eddy on 12 July:³⁸⁸
- (i.) on the reporting of the outcome of consultation on the draft Specified Bovine Offal Order, together with a revised draft Order for signature by the Parliamentary Secretary;

³⁸⁵ YB95/7.11/1.1

³⁸⁶ YB95/7.11/2.1

³⁸⁷ YB 95/7.6/4.1-4.6

³⁸⁸ YB95/7.13/7.1

- (ii.) reporting the results of a special period of surveillance on the controls actually applied in respect of specified bovine offals in slaughterhouses and other premises.

319. Mr Packer stated that he thought the papers made a convincing case to the effect that measures already in place properly protected human health. However, taken together they seemed to present real problems of presentation. It might be regarded as unfortunate, for example, to be continuing to introduce more stringent requirements about the treatment of bovine skulls. He said that they were aware now, which they were not previously, that a very small amount of infected brain could bring about the disease if fed orally, but even so, this explanation might not seem 'overly convincing' to some who might consider that the situation should have been properly grasped long since. He also commented that the unsatisfactory treatment of specified bovine offal in slaughterhouses reflected an unfortunate state of affairs, which had presumably existed for many years. Finally, he suggested that they should institute a programme of random unannounced spot checks on compliance until further notice.

320. In the final paragraph, Mr Packer discussed the presentational aspects:

'It is our well established policy in this area, as in others, which I commend, to be completely open on the facts. This, however, leaves open whether a Parliamentary answer, as proposed, is the best way to proceed. Also there is the question of our relationship with other departments, mainly the Department of Health, but also other Agriculture Departments. The former, in particular need to be content with what is proposed; it is also vital they are prepared to agree that there is no risk to human health. I suggest we need to consider these points also at an early meeting.'

321. On 13 July 1995, Mr Corrigan sent a memorandum to all MHS Regional Managers, all POVs, all OVSs, all MHIs and all ARMs, regarding the specified bovine offal controls.³⁸⁹ Mr Corrigan included with his memorandum a copy of the SBO Control Responsibility Check List. He requested that necessary steps be taken to ensure that each member of the Plant MHS Team, and relevant plant personnel, be made fully aware of the detail and requirements of the SBO controls, and to ensure that the controls were being fully complied with.

322. On 18 July 1995, Mr Hewson sent a minute to Mr Meldrum, Mr Crawford, Mr Haddon, Mr K Taylor, Dr Cawthorne, Mr D Taylor, Mr Eddy, Mr McNeill and Mr Corrigan, which recorded discussions held about control of the disposal of SBO in licensed fresh meat premises.³⁹⁰ The meeting set out a system for an integrated approach to SBO enforcement as between the SVS and the MHS.

³⁸⁹ YB95/7.13/21.-2.2

³⁹⁰ YB95/7.18/5.1

323. Also on 18 July 1995, Mr Hewson wrote to Mr Meldrum regarding a meeting which had taken place between MAFF and MHS officials. The meeting discussed the proposals which had been made to improve SBO control and monitoring.³⁹¹ The minute noted that failure properly to stain and separate SBO had been identified by SVS staff in visits made pursuant to AHC 95/74. The findings were confirmed at HAT visits made to a smaller sample of slaughterhouses by the MHS. It was therefore agreed that a follow-up visit would be made and any deficiencies notified to MHS Head of Operation with copies to MHS Regional Manager.
324. On the same day, the Minister, Mr Hogg, held a meeting with Mrs Browning (the Parliamentary Secretary), Mr Packer, Mr Eddy, Mr Carden, Mr Meldrum, Mr Haddon, Mr Taylor, Mr Haslam (MAFF Director of Information), Mr Fleetwood, Miss Wordley and Miss A Evans.³⁹² Amongst other things, they discussed the results of a survey on compliance with SBO controls. Of the 392 slaughterhouses and 43 head-boning plants that were visited, failures to comply fully with the rules on SBO staining were found in 65% of plants, and failures to comply fully with the rules regarding the separation of SBOs from other materials to be sent for rendering were found in 14% of the plants.³⁹³ Mr Meldrum reminded the meeting that ‘there was no public health problem, there was not [sic] question of SBOs entering the human food-chain, the risk was of cross-contamination of animal feed’.³⁹⁴ Mr Carden told the BSE Inquiry that the results ‘clearly reinforced the case for tighter rules and tighter enforcement’.³⁹⁵ The Minister ‘commented that were there to be any risk to human health it would be necessary to take immediate action . . . However, the costs of introducing these measures without a transitional period probably outweighed the nature and level of the risk to animal health’.³⁹⁶
325. It was agreed at the meeting that several steps should be taken to publicise the newly agreed order and the slaughterhouse findings. These included a PQ, ‘a low-key background press briefing’ by the CVO and letters to key MPs, ‘notably the Opposition Parties’ spokesmen and the chairman of the Agriculture Select Committee’. The Minister also instructed that ‘it was important that the Department of Health were fully in the picture and that the Chief Medical Office (*sic*) would if necessary reiterate that there were no public health implications. It would also be important to notify the Commission and Germany’.³⁹⁷

³⁹¹ YB 95/7.18/4.1.

³⁹² YB95/7.20/5.1

³⁹³ S327 Hogg para 13

³⁹⁴ YB95/7.20/5.3 para 6

³⁹⁵ S103 Carden para 33; T41 p.99-101; YB95/7.20/5.1

³⁹⁶ YB95/7.20/5.2

³⁹⁷ YB95/7.20/5.3

326. Notification was sent to the Commission the day after the meeting. The letter explained the slaughterhouse findings at some length and informed the Commission that ‘in line with the Government’s policy of openness on BSE the unsatisfactory position has been announced to the UK Parliament and the Parliamentary Reply will be issued in the form of a Press Notice’.³⁹⁸
327. In the news release on the next day (19 July 1995), Mr Hogg announced a
‘A strengthening of the rules for preventing tissue potentially infected with the BSE agent from entering the cattle feed chain ... 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.’³⁹⁹
328. He further stated:⁴⁰⁰
‘It is clear from the surveillance of slaughterhouses and head-boning plants that has been undertaken by my officials since the Government took over full responsibility for control of such premises in April this year, that current practice on the separation and staining of the specified bovine offals can be improved. Most of the failings we have identified are comparatively minor in nature - for instance using the wrong stain - and plant operators have been given clear instructions on what they must do to put things right. But some could have resulted in BSE infected material entering the animal feed chain. Further follow up visits are being made to ensure that the faults have been rectified. Where failings are not corrected we are prepared to bring prosecutions if necessary.’
329. Also on 19 July 1995, Mr Fleetwood wrote a short minute to Mr Meldrum setting out a progress report in respect of the second round of visits to slaughterhouses and head boning plants.⁴⁰¹ The minute recorded that in the vast majority of cases the problem had now been addressed. In 91% of premises where problems had been identified in respect of improper separation, the problems had been rectified. In premises where there had been problems with staining, 79% had now corrected the deficiencies.
330. On 25 July 1995, Mr K Taylor wrote to Mr Corrigan at the MHS regarding SBO compliance in slaughterhouses. Mr Taylor reported that:⁴⁰²

³⁹⁸ YB95/7.19/7.1

³⁹⁹ YB95/7.19/6.1

⁴⁰⁰ YB95/7.19/6.2

⁴⁰¹ YB95/7.19/1.1

⁴⁰² YB95/7.25/3.1

‘...despite our various control measures there have now been more than 20,000 cases of BSE confirmed in cattle born after the imposition of the ban on feeding ruminant protein to ruminant animals in July 1988. The effectiveness of that ban should have been reinforced by the extension in September 1990 of the SBO ban from human to animal feed, which was intended to prevent transmission to non-ruminant species but should, incidentally, have reduced the effect of any contravention of the ruminant feed ban. As at 30th June 1995 BSE had been confirmed in 468 cattle born after 30 September 1990.’

331. Mr Taylor stated that the EC Scientific Veterinary Committee in Brussels and SEAC were ‘increasingly reluctant to accept general statements of intent’ about proper implementation of the controls, and were ‘beginning to demand some form of proof that what we say should happen actually does happen – not just sometimes but always’.
332. On 28 July 1995, Mr Fleetwood sent Mr Corrigan the results of the second round of SVS visits to slaughterhouses and head boning plants.⁴⁰³ The report indicated that there were a number of outstanding problems. Mr Corrigan had advocated a progressive approach, concentrating on education in the first instance, and thereafter dealing with problems as they arose. Mr Fleetwood and Mr K Taylor had discussed the results of the second round of SVS visits and concluded that a variety of different approaches might be needed. Mr Fleetwood stressed the need for any premises, where a risk of contamination of meat for human consumption had been identified, to receive an immediate visit, so that the problem could be corrected by whatever means were necessary. Problems such as the confusion as to which stain to use were considered to be less important, and in those instances Mr Fleetwood favoured a progressive approach. Where ‘a bloody minded’ attitude had been identified with slaughterhouse operators refusing to use the correct stain, Mr Fleetwood suggested that immediate steps should be taken to begin prosecution proceedings. In conducting future visits, Mr Fleetwood thought it best that MHS take the lead on all visits, but he wanted SVS staff to be in attendance so that they could report back, and report on the outcome of any follow up visits.
333. On 31 July 1995, Mr Corrigan sent a memorandum to all MHS Regional Managers, OVSs, MHIs and ARMs, concerning the revised Specified Bovine Offal Order, which was to come into force on 15 August 1995.⁴⁰⁴ He stressed that the changes outlined formed a major part of the overall UK BSE controls which were being advised to the European Union. He stated that it was imperative that they were distributed to the listed persons and effectively implemented in the very near future. Mr Corrigan provided a copy of the SVS report form on SBO control arrangements so as to assist MHS staff in understanding the criteria which were to be used in assessing the effectiveness of the control measures. The memorandum also recorded recent legal advice that suggested that paragraph 9 of

⁴⁰³ YB 95/7.28/7.1

⁴⁰⁴ YB 95/7.31/1.2

Schedule 10 to the Fresh Meat Regulations permitted the residual presence of spinal cord being used as a reason for not health marking bovine carcasses.

334. On 1 August 1995, Mr Eddy put a submission to the Parliamentary Secretary, Mrs Browning, reporting the early results of the second series of visits to slaughterhouses and head boning plants.⁴⁰⁵ The minute was copied widely within MAFF and to the Territorial Departments. Mr Eddy identified that two operators were found not to be separating SBO properly from material for human consumption. These problems had not been found at the earlier visits to the two plants concerned. In one plant, spinal cord was seen in one carcass and tonsils were not being properly removed from the heads. In the other, brains were being removed from heads in a separate part of the plant, and the heads were then brought back for vacuum packing into the part of the factory processing meat for human consumption. Mr Eddy stated that at first sight these were serious problems, particularly in the first plant, which if undetected could have led to SBO entering the food chain, though this needed to be carefully checked. Mr Eddy reported that 'State Veterinary Service staff gave on the spot advice to the operators to correct the problem. Both plants are being visited... and we expect reports on those today'. An article, which had appeared in Farming News on 28 July, had reported on the deficiencies mentioned in the recent Parliamentary Answer, suggesting that, if potentially contaminated material had been allowed to leak into the animal feed chain, it was likely that the same thing was happening in the human food chain. Mr Eddy pointed out that the two instances reported in the recent survey meant that MAFF could not respond to that article in such robust terms as would have been possible on the basis of the first round of visits.
335. In his statement Mr Meldrum stated:
- 'I recollect that I was made aware of the spinal cord finding before I went on leave on 29th July, 1995 and, as a result, I left clear instructions that the slaughterhouse should be re-visited as soon as possible and attention should be directed at the satisfactory removal of spinal cord at all future inspection visits to other premises where SBOs were being removed from the carcass. I also recollect that I was profoundly disappointed at this finding and expressed the hope that it would be a one off. Unfortunately this was not to be the case'.⁴⁰⁶
336. Mrs Ratcliffe (P/S Mrs Browning) responded by manuscript note on 2 August that, 'the Parliamentary Secretary has commented that immediate action is necessary to correct these problems.'
337. On 3 August 1995, an update on the results of the second round of visits to slaughterhouses and head boning plants was sent by Mr Fleetwood to Mr

⁴⁰⁵ YB95/8.1/2.1

⁴⁰⁶ S 184A Meldrum para F159

K Taylor and Mr Eddy. The minute was copied to Mr Meldrum, Dr Cawthorne, Mr Soul, Mr Hewson, Miss Coales and Mr Lackenby. Mr Fleetwood reported that a third plant had been identified where problems of separation concerning food fit for human consumption had been identified.⁴⁰⁷

338. On the same day (3 August 1995), Mr Eddy wrote to Mr Lister of the Department of Health regarding the results of the second round of visits to slaughterhouses.⁴⁰⁸ Mr Eddy described the three instances where SBO was not being separated adequately from material for human consumption. Mr Eddy pointed out that ‘we can no longer be as robust as we were in the press notice about no infective material entering the human food chain.’ He went on to say that the problems were 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. Mr Eddy said that he was inclined to await the results from the third round of unannounced visits, which should be out in the autumn, before advising on any further announcements. He said that he would welcome the views of the Department of Health.

339. On 4 August 1995, Mr Lister copied Mr Eddy’s letter to Dr Wight, stating that Dr Calman and the Department of Health Ministers needed to be briefed on the findings. He said:⁴⁰⁹

‘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.’

I agree with Tom that there is no need to consider a public statement until the third series of unannounced visits has been completed’.

340. Dr Calman became aware of these findings of non-compliance with the SBO regulations either at the time of Mr Lister’s minute to Dr Wight or shortly thereafter.⁴¹⁰

341. On 4 August 1995, Mr G Hollis of MAFF’s Livestock Group minuted Mr Eddy regarding the early results of the second round of SVS visits to slaughterhouses.⁴¹¹ Mr Hollis stated:

‘Your minute of 1 August came as an unwelcome surprise, since it revealed that at least one plant has been cutting carcasses so poorly that SBO could be entering the food chain.’

⁴⁰⁷ YB 95/8.3/2.1

⁴⁰⁸ YB95/8.3/1.1

⁴⁰⁹ YB95/8.4/5.1

⁴¹⁰ T66 p131

⁴¹¹ YB95/8.4/1.1-1.2

342. Mr Hollis pointed out that the problems described in Mr Eddy's letter of 1 August 1995 came to light as a result of unannounced visits by the SVS, despite the fact that the MHS had been asked to monitor SBO compliance. He stated that the findings gave rise to the following questions:⁴¹²

why had these problems not been detected by the Meat Inspectors/OVS at the plants?

what is the MHS going to do about this?

will disciplinary action be taken by the MHS?

is legal action being considered against the plant?

343. In a minute of 4 August 1995, Mr Strang wrote to Mr Eddy about a recent briefing meeting with the Minister. The Minister had expressed concern about the outcome of the second round of visits to slaughterhouses. In particular 'the case involving spinal cord could be very serious.' The Minister agreed that in general terms the approach outlined by Mr Carden should be pursued, namely:

(i) tightening up the rules wherever there was evidence that action was needed;

(ii) tightening up enforcement, making prosecutions when companies repeatedly infringed the legislation.

(iii) making prosecutions when companies repeatedly infringed the legislation.

The Minister commented that we should certainly not shrink from (iii).⁴¹³

344. Mr Eddy replied to Mr Hollis on 7 August stating (amongst other things that):⁴¹⁴

'I think you will find that most of these questions have been answered in my minute to Mrs Browning. In relation to the piece of spinal cord left behind in a carcass I think we have to keep this in proportion. We are talking about one carcass in an entire chillroom of carcasses and also of course all the other meat plants which were checked had no problems with spinal cords. In this particular case we are told that there was a new operative on the line and the offending piece of spinal cord was removed before the carcass left the slaughterhouse. Nevertheless it had already been inspected and passed and I know that the Meat Hygiene Service are taking action to ensure that meat inspection does pay particular attention to this question of the spinal cord. In future meat will not be given its health stamp unless the inspector is absolutely sure that the spinal cord has been removed.'

⁴¹² YB95/8.4/1.1

⁴¹³ YB95/8.4/2.1

⁴¹⁴ YB95/8.7/2.1

345. On 7 August 1995 Mr Eddy minuted Mrs Browning in response to her comment on his minute of 1 August that immediate action was necessary to correct problems found in slaughterhouses during the second round of SVS visits and also dealt with Mr Hollis' minute of 4 August to Mr Eddy. He explained:⁴¹⁵

‘2. The results of all the unsatisfactory visits have been taken up with the Meat Hygiene Service...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 the risk of contamination of material for human consumption. This has been done and those practices have been ceased.

3. Turning to other plants which still had problems but only in relation to the animal feed chain. Some premises had ordered but not yet received the new stain for specified bovine offals, and some were still genuinely confused about the rules. The MHS are working with those plant operators to ensure that the right procedures are put in place as soon as possible and we expect these problems to be resolved quickly. Three operators are however refusing to buy the new stain and we have told the MHS that immediate steps should be taken with a view to begin prosecution proceedings.

4. A third round of unannounced visits to plants where it is not clear that all the problems have now been resolved will be undertaken shortly which will, if necessary, be used to collect evidence for prosecution. The results of these visits will be available in September when an overall report will be made to Ministers. No decisions on prosecutions will be taken without consulting Ministers.’

346. Mrs Browning responded to Mr Eddy by Mrs Ratcliffe's manuscript note of 8 August, saying:

‘Mrs Browning is keen to see para 3 implemented quickly, and has commented that she wishes to be alerted to any problems that arise with this or other BSE-related matters.’

347. On 8 August 1995, AHC 95/119 was circulated to all veterinary staff. The circular requested that visits be undertaken to all plants where deficiencies had been discovered during the second round of visits to slaughterhouses made under AHC 95/101.⁴¹⁶ Mr Fleetwood wrote to Mr Soul of the MHS on the same day, endorsing the new AHC stressing the need for ‘robust’ action to be taken in respect of the deficiencies in SBO compliance.⁴¹⁷

348. On 11 August 1995, Mrs Brown of the Meat Hygiene Division clarified a misunderstanding over the respective roles of her Division and Animal Health (Disease Control) Division under the new MHS Agency arrangements. As a result, Animal Health (Disease Control) Division

⁴¹⁵ YB95/08.07/2.1-2.2

⁴¹⁶ YB95/8.8/1.1

⁴¹⁷ YB95/8.8/2.2

became the customer of the MHS for SBO work in the MHS Memorandum of Understanding, and Mr Eddy therefore became accountable for the public expenditure costs.⁴¹⁸

349. On 15 August 1995, the Specified Bovine Offal Order 1995 came into force.⁴¹⁹ The Order, made under the Animal Health Act 1981, replaced and extended the previous SBO Regulations made under the Food Safety Act 1990 and the Animal Health Act respectively. It tightened controls on record-keeping, introduced dedicated lines for rendering plants processing SBO, prohibited the removal of brains and eyes so that the whole skull had to be disposed of as SBO, and prohibited the removal of spinal cord from the vertebral column apart from in slaughterhouses.
350. On 17 August 1995, Mr Jones of Eville and Jones wrote to Mr Corrigan at the Meat Hygiene Service. Mr Jones set out a summary of the deficiencies found as at 1 April 1995 in the plants attended by Eville and Jones.⁴²⁰ The deficiencies included, in the majority of areas, identification of incomplete removal of spinal cord. Deficiencies in respect of staining and separation of SBOs were noted in a number of cases, as well as poor control over movement. In some plants, obvious lymphatic and nervous tissue had not been removed during boning. Bovine intestines had been included in bins of fat and not stained. Pieces of intestine were removed with mesenteric fat and not treated as SBO. The report ended by saying that most of the points outlined had undergone significant improvement over the five months since 1 April 1995.
351. On 22 August 1995, Dr Cawthorne minuted Mr K C Taylor regarding the second round of SVS visits to abattoirs and head boning plants.⁴²¹ Dr Cawthorne reported that 272 premises were visited and in 198 separation and staining of SBO was found to be satisfactory. Problems were found in 74 plants. There was inadequate separation in five plants, ineffective staining in 59 plants and inadequate separation and staining in 10 plants. In the three plants identified in Mr Fleetwood's minute of 3 August 1995, the major problems with separation appeared to have been rectified. Dr Cawthorne reported that he had spoken to Mr Corrigan and MHS Regional Managers. They had undertaken to provide a statement identifying for each of the 74 plants where inadequate separation and staining was detected (a) whether the inadequacies had been corrected, (b) if not, why not, identifying mitigating circumstances, and (c) those plants which were candidates for prosecution.
352. On 25 August 1995, Mr Meldrum wrote to Dr Metters at the Department of Health regarding Mr Eddy's letter of 3 August to Mr Lister.⁴²² Mr

⁴¹⁸ YB 95/8.7/2.1-2.2, YB 95/8.11/1.1-1.2

⁴¹⁹ L2 tab 13

⁴²⁰ YB95/8.17/2.1

⁴²¹ YB95/8.22/2.1

⁴²² YB95/8.25/1.1

Meldrum said that in his view Mr Eddy painted a more alarmist picture than was justified by the circumstances. Although many faults had been found, particularly relating to the staining of SBO, 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 that has just been introduced, although primarily directed to protecting the health of cattle, should simplify their task in some respect. 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 the legislation.’

353. 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’.⁴²³

354. On 8 September 1995, SEAC discussed the results of SVS visits to slaughterhouses. Their discussions are recorded in Mr Eddy’s minute of 11 September 1995 to Mr Meldrum. The minute was copied to Mr Haddon, Mr K Taylor, Dr Cawthorne, Dr Matthews, Mr Fleetwood, Mr Lackenby, Miss Coales, Mrs K Brown and Mr D Taylor.⁴²⁴ Mr Eddy said that Mr Fleetwood had given a very clear and convincing exposition of the findings from the final round of intensive visits to slaughterhouses. The Committee were reassured by the progress from the first round of visits and by the fact that MAFF were continuing to visit on an unannounced basis. Mr Eddy observed that:

‘They accepted 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.’

355. Following his attendance at the SEAC meeting, Mr Fleetwood wrote to Mr Corrigan on 18 September 1995.⁴²⁵ As a result of the concerns raised by SEAC, Mr Fleetwood asked that the MHS should draw to the attention of their staff in individual plants the need to ensure that fragments of spinal cord were removed, kept separate and included in the weight audit at all points along the production line.

⁴²³ YB95/9.01/2.1

⁴²⁴ YB95/9.11/2.1

⁴²⁵ YB95/9.18/1.1

356. On 20 September 1995, Mr Corrigan sent a memorandum to all MHS staff with responsibilities under the SBO regulations.⁴²⁶ The minute reported that disposal of SBO had been discussed at a recent meeting of SEAC. Mr Corrigan recorded that SEAC welcomed the efforts made by the MHS and progress made. However, the Committee had drawn particular attention to the fact that fragments of spinal cord might become detached or be removed at a number of points along the process line. SEAC had asked that the MHS should draw this to the attention of inspectors at individual plants, asking them to ensure that all such fragments were collected together and included in the weight audit.
357. On 26 September 1995, Mr Corrigan sent a memorandum to all MHS Regional Managers about continued attention to ensure SBO compliance.⁴²⁷ The memorandum noted that the SVS second round of visits to licensed plants had been completed and that Mr Corrigan had been advised that any outstanding problems had been rectified. Mr Corrigan reported that the SVS had been instructed to carry out further unannounced visits and therefore stressed the necessity of paying attention to SBO controls at all bovine plants within each region.
358. On 29 September 1995, MAFF distributed an Animal Health Circular ACH 95/148 to ADsVFS, the VHS at Pentland House (SOAEFD), RMHAs, MHAS' and VOs (MH) (for action) and other veterinary staff (for information). It discussed the revised instructions on the meat hygiene duties of SVS staff following the inception of the MHS. The instructions reiterated, with minor changes, the instructions on licensing and the revocation of licences in fresh meat and poultry meat premises, and introduced monitoring of MHS performance by the SVS. Instructions on completion of temporary derogations and the approval of premises for export to third countries were included.⁴²⁸
359. On 6 October 1995 Mr Fleetwood minuted Dr Cawthorne about the outcome of SVS Surveillance of SBO.⁴²⁹ Mr Fleetwood enclosed a table outlining the reasons why certain premises inspection was found to be unsatisfactory and continued: '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'.⁴³⁰
360. On 11 October 1995 Dr Cawthorne minuted Mr Meldrum about a meeting which the latter was due to hold with MHS officials that evening. The meeting was to discuss the slaughterhouse findings and hear the 'action plan' which the MHS had drawn up to tackle the problems. The plan

⁴²⁶ YB95/9.20/1.1

⁴²⁷ YB95/9.26/1.1

⁴²⁸ M42 tab 25

⁴²⁹ YB95/10.06/1.1-1.4

⁴³⁰ YB95/10.06/1.2

included 'instructions to MHS staff in each abattoir to sign a log book at the end of each day indicating that checks have been carried out on SBO separation and staining and that all is in order. Principal OVSs will be asked to visit problem plants to be sure that MHS staff are doing their job properly: disciplinary measures will be instituted if necessary. Where problems rest with plant management, Investigation Branch will be invited to collect evidence for prosecution'.⁴³¹

361. On 12 October 1995, Mr Fleetwood minuted Dr Cawthorne⁴³² confirming that the poor SBO results he reported on 6 October 1995⁴³³ did, in fact, represent serious problems. He stated:

'In my report of 6 October, I hinted that some of the poor results recorded at slaughterhouses in August/September may have arisen as a result of field staff applying exceptionally strict inspection criteria during their visits. I understand that similar opinions have recently been voiced by the MHS.

...

'...I have to report to you my opinion that some of the SVS results reflect genuine, continuing problems, some reflect differences of opinion which require a firm lead from us and some may reflect over-strict interpretation of the rules by the SVS.'

362. In his evidence to the Inquiry, Mr Eddy commented that, with the benefit of hindsight, the fact that these allegations were made suggested that those directly involved in enforcement work in slaughterhouses might, until this point, had been applying a degree of tolerance of minor failings, which Mr Eddy did not believe was ever asked of them in their instructions.⁴³⁴

363. On 13 October 1995, Dr Cawthorne reported to Ministers on the further round of abattoir surveillance. Mr Eddy received a copy of the report.⁴³⁵ The note suggested that there were differences of interpretation amongst veterinary field staff in some respects, but not on key issues. The results were again 'disappointing'. They are referred to in more detail in relation to Mr Soul's minute of 18 October 1995 to MHS Regional Managers, which is described below.

364. On 18 October 1995, Mr Soul wrote to MHS Regional Managers asking them to identify those plants where there was genuine non-compliance and those cases which might warrant a prosecution.⁴³⁶ This information was to be passed to York Headquarters, so that letters could be written to the relevant individual plants. At the same time, Mr Soul wrote to all MHS

⁴³¹ YB95/10.11/1.1

⁴³² YB 95/10.12/3.1-3.4

⁴³³ YB 95/10.6/1.1-1.3 at para 2, 5

⁴³⁴ S Eddy para 82

⁴³⁵ YB 95/10.13/5.1-5.5

⁴³⁶ YB95/10.18/1.1-1.6

staff in beef plants about the most recent results of SVS visits. Mr Soul recorded that, while the second round of SVS visits were quite satisfactory, the results of the most recent round were quite disappointing. In the latest round 52% of plants were found to have satisfactory controls in place, whilst 48% of plants failed to satisfy the reviewing SVS Veterinary Officer in some aspects of SBO controls. The most recent failures included:

- (i.) inadequate separation of SBO;
- (ii.) failure to stain SBO comprehensively;
- (iii.) unsatisfactory record keeping of SBO by plant management;
- (iv.) consignment to inappropriate destinations.

365. Mr Soul stressed that it was imperative that plant management and MHS staff fully appreciated the importance of implementing SBO controls in full as part of the national effort to control SBO. In addition, the MHS OVS was required to ensure that a daily entry was made by himself/herself or the SMHI/MHI in the MHS daybook at each plant, verifying that full compliance with SBO regulations had occurred on that day.

366. On 20 October 1995, Mr Soul wrote to MHS Regional Managers informing them that he had received reports that SVS staff were continuing to find cases of health marked beef sides with pieces of spinal cord still present in the spinal canal.⁴³⁷ Mr Soul asked all plant-based staff to be made aware that they must not permit the health mark to be applied to beef sides until all the spinal cord had been removed.

367. On 20 October 1995, Mr Meldrum put a submission up to Mr Hogg and Mrs Browning (copied widely to other MAFF Ministers, officials and Territorial Departments) informing them about the first case of BSE in an animal born in 1993.⁴³⁸ He said that this was

‘not surprising... It can readily be explained by our current thinking on the causes of BABs and no further action is needed in response to this case. The leakage out of our BSE control system and through our feed mills is thought to have continued beyond 1992, and so cases born in 1993 and later years can be expected.’⁴³⁹

368. Mr Meldrum noted that the animal was only 25 month old at clinical onset, and that the EC, ‘possibly prompted by the Germans’, might want to shorten the current restriction on exporting beef from cattle over 30 months old. He said that this ‘would make exports more difficult and we would try very hard to resist this...’⁴⁴⁰

⁴³⁷ YB 95/10.20/1.1

⁴³⁸ YB95/10.20/3.1-3.4

⁴³⁹ YB95/10.20/3.2 para 4

⁴⁴⁰ YB95/10.20/3.2 para 5

369. On 20 October 1995 Mr Fleetwood minuted Dr Cawthorne in respect of the three occasions during September's surveillance when SVS staff had noted that spinal cords were not being removed correctly from beef carcasses (all of which had nevertheless received the health mark).⁴⁴¹ Mr Fleetwood was pleased to report that in each case SVS staff had 'followed their Inset instructions to the letter'. In two of the cases problems had been resolved on the revisit and results were awaited on the third.
370. On 23 October 1995, Mr Meldrum wrote to Sir Kenneth Calman to report that the findings of the SVS staff's bi-monthly audit of all abattoirs and boning plants were 'disappointing'. However, he said that 'in all cases, an unannounced visit, approximately a fortnight later, showed that spinal cord was being removed correctly and in its entirety'.⁴⁴² Mr Meldrum's letter was accompanied by a draft PQ which was still to be approved by Ministers. Mr Meldrum told Dr Calman that he was to have a meeting with the industry in order to 'impress upon them the importance of compliance with the requirement to fully separate and dispose of SBO'.⁴⁴³ Though measures were being taken to correct the problem, Mr Meldrum said that such instances were inevitable to a certain degree as 'no system operated by humans can deliver at 100% efficiency all the time'.⁴⁴⁴
371. In evidence Mr Meldrum stated:⁴⁴⁵
- '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 23rd 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 for 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.'
372. In his statement to the BSE Inquiry, Sir Kenneth Calman said that, when made formally aware of these breaches:
- 'immediate action was taken to obtain the requisite assurances from MAFF that the SBO bans would be enforced rigorously to safeguard public health'.⁴⁴⁶
373. Sir Kenneth stated that the Department of Health had 'no enforcement responsibilities' in relation to compliance with the SBO regulations.⁴⁴⁷

⁴⁴¹ YB95/10.20/2.1

⁴⁴² YB95/10.23/2.1

⁴⁴³ YB95/10.23/2.1

⁴⁴⁴ YB95/10.23/2.1

⁴⁴⁵ T69, page 171

⁴⁴⁶ S Calman para 145

They relied upon MAFF for current and accurate information. This position was supported by Dr Wight, who stated that MAFF not only had a 'considerable amount of information about the state of the BSE epidemic',⁴⁴⁸ and were 'responsible' for communicating this information to DH and SEAC as required.

374. In evidence to the Inquiry Dr Rubery was asked about the DH involvement in monitoring the enforcement of meat hygiene legislation and representation on the MHS ownership board:

'...[MAFF] would make the legislation in regard to meat hygiene, and I assume they give guidance which they may well consult us on, and any responsibility for monitoring and ensuring that guidance was implemented would lie with them and the local authorities who presumably employed those who inspected.

MR WALKER: Suppose they were to revise their guidance, which part of the Department of Health would they consult with then?

DR RUBERY: They would then consult with us in terms of asking if we were content with what was in the guidance, but we do not lead, we would then give advice to them.

MR WALKER: You have mentioned, Dr Rubery, that you were on the board of the --

DR RUBERY: Meat Hygiene Services Board, yes.

MR WALKER: Why was that?

DR RUBERY: For that reason, because we have an interest in the meat hygiene side of things being enforced in slaughterhouses and abattoirs, therefore it is important that we are aware of what is going on and we perform the useful function of reminding MAFF of the health implications of the work that they are supervising, but it is not our responsibility to lead, and that would be reflected by the fact that Mr Carden, Grade 2 in MAFF, was the Chairman of Meat Hygiene Services Board, and Meat Hygiene Services reported into MAFF rather than into the Department of Health.

MR WALKER: Would it be right to describe it as a two way process, that on the board you would be able to contribute a Department of Health perspective, and equally, from your work on the board, you would be able to bring back to the Department of Health the Meat Hygiene Services perspective?

DR RUBERY: Yes, and MAFF's perspective as well. These perspectives are very different, because each part does react with a different constituency, and it is very important when you are trying to make the best decision to be aware of all the pressures that are acting on all the different

⁴⁴⁷ S Calman para 144

⁴⁴⁸ S Wight para 46

partners in that decision, so yes, I think the Meat Hygiene Services Board is very useful in that context.⁴⁴⁹

375. On 23 October 1995, the Daily Mail reported the fourth case of CJD in a cattle farmer.⁴⁵⁰ The newspaper had 'received a late draft of the statement when it was faxed incorrectly by a DH official and went to a private Fax number'.⁴⁵¹ Later that day, SEAC released, via the Department of Health, their statement announcing the fourth (suspected) case of CJD in a cattle farmer. The statement said

'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. They also noted that surveillance of CJD elsewhere in Europe has shown a similar incidence of CJD in farmers, including dairy farmers...'⁴⁵²

376. Dr Skinner of the Department of Health told the BSE Inquiry that the information about a possible fourth case of CJD in a farmer, together with the slowly emerging information concerning breaches of the SBO ban, caused considerable unease.⁴⁵³

377. On 24 October 1995, Mr Lister minuted Dr Harvey, PS/CMO, concerning the draft PQ that Mr Meldrum had sent to Dr Calman on the day before. He said that the CMO 'will wish to know that the removal of SBOs was discussed by SEAC on 8 September'.⁴⁵⁴ Mr Lister summarised the evidence presented in the PQ for Dr Harvey as follows:⁴⁵⁵

- 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.'

⁴⁴⁹ T48 p90-91

⁴⁵⁰ YB95/10.23/7.1

⁴⁵¹ YB95/10.23/7.3 para 3

⁴⁵² IBD24 or YB95/10.00/3.1

⁴⁵³ S118 Skinner para 52

⁴⁵⁴ YB95/10.24/7.1

⁴⁵⁵ YB95/10.24/7.1 at para 2

378. Dr Wight and Mr Lister discussed the wording of a proposed 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.’⁴⁵⁶

379. On the same day (24 October) Dr Cawthorne minuted the Permanent Secretary with a background note to the SVS audit of SBO separation in abattoirs.⁴⁵⁷ Dr Cawthorne summarised the results of the first and second round of visits and the subsequent bi-monthly unannounced audits of abattoirs. He explained that the results for September revealed that problems were still in evidence and that,

‘As a consequence, the CVO met the Chief Executive and senior managers of the MHS on 11 October and expressed his serious disquiet at what the SVS was uncovering in the course of their audits. The point was made forcibly, that the responsibility for enforcing controls in abattoirs rested with MHS staff on-the-spot. It was highly unsatisfactory that SVS staff should continue to identify faults which MHS inspectors should have picked up in the course of their duties. The MHS were concerned at the results of these audits and expressed a commitment to ensuring that SBO separation and disposal was properly enforced in plants.’

380. On 25 October 1995, Mr Lister also wrote to Ms Woodeson, PS/Parliamentary Secretary (Lords), with a briefing. He outlined the current position of the Department of Health on the BSE epidemic. The brief stated that SBOs thought to contain infective agent and banned from use in human and animal food ‘may have been getting into animal feed because of poor controls at slaughterhouses.’⁴⁵⁸ It also said that MAFF had addressed this problem ‘at least in part, by transferring responsibility for slaughterhouse inspections from local authorities to the Meat Hygiene Service.’⁴⁵⁹

381. Also on 25 October 1995, Dr Calman met Mr Packer for a more detailed discussion.⁴⁶⁰ In his evidence to the BSE Inquiry, Dr Calman summarised the meeting as follows:

‘... I expressed a number of concerns I had as a result of the lapses in the SBO ban which had been identified. These were the continuing high number of BSE cases being reported, although this was declining, the high number of cases born after the feed ban which implied that controls in feed

⁴⁵⁶ YB95/10.24/7.1 at para 3

⁴⁵⁷ YB95/10.24/5.1

⁴⁵⁸ YB95/10.25/7.1

⁴⁵⁹ YB95/10.25/7.1

⁴⁶⁰ YB95/10.25/3.1

mills were inadequate and discovery that SBO had not always been properly removed in slaughterhouses and the fact that four farmers had contracted CJD. Despite the fact that I received assurances that enforcement of the SBO ban would be carried out vigorously in feed mills and slaughterhouses and that the Meat Hygiene Services would be left in no doubt of the high priority of this measure I requested an immediate meeting with the Minister.⁴⁶¹

382. Mr Packer minuted the Minister regarding this meeting on 25 October.⁴⁶² The minute records that the Permanent Secretary said that the Department would pursue 'with vigour' the following:⁴⁶³

(i) proper liaison with DoH on matters such as PQs. Perhaps those to whom this minute is copied could ensure there are no hitches in this area in future;

(ii) continued monitoring of feed mills. I'll be grateful if AHVG could report urgently on the monitoring in place and how this might be made more effective;

(iii) the monitoring of adherence to the regulations in slaughterhouses and in particular the correct treatment of Specified Bovine Offals. I have said we will ensure that the Meat Hygiene Service were in no doubt whatsoever as to the priority to be accorded to this objective by a directive from new or some other means;

(iv) BSE to take first priority on the R&D budget.

He also proposed that MAFF should 'call in the slaughterhouse owners and, in effect, read the riot act'.⁴⁶⁴ The Minister read the Secretary's minute 'with concern' and asked for 'an urgent meeting' with officials and a separate meeting with the CMO.⁴⁶⁵

383. Mr Packer arranged for Dr Calman to meet Mr Hogg on 7 November 1995.

384. On 27 October 1995, with the agreement of the CVO and senior colleagues, Mr Eddy recommended to Ministers that the SVS double the audit frequency of slaughterhouses, that they move more quickly to prosecutions and that the Minister write to the Chief Executive of the MHS to instruct him formally that appropriate steps should be taken to ensure that the MHS staff enforce the regulations properly.⁴⁶⁶

⁴⁶¹ S179 Calman para 99; discussed at T41 Carden p.102

⁴⁶² YB95/10.25/3.1

⁴⁶³ YB90/10.25/3.1 at para 4

⁴⁶⁴ YB95/10.25/3.1 at para 5

⁴⁶⁵ YB95/10.27/5.1

⁴⁶⁶ YB95/10.27/1.1

385. On 30 October 1995, the Minister and the Parliamentary Secretary (Mrs Browning) held a meeting on BSE with senior officials.⁴⁶⁷ The note of the meeting records that those present re-examined everything from ‘the origin of BSE’ to the ‘increase in CJD cases, and in cases in unusually young people’. The Permanent Secretary described ‘the potentially very serious matter of cases where SBO matter - in particular spinal cords - had not been properly removed from carcasses. 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 . . . The meeting should be followed by a formal letter’.⁴⁶⁸
386. The Minister 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 . . . The Minister would also want to arrange a visit to a slaughterhouse . . . Mrs Browning should hold separate meetings with the knacker industry and the hunt kennels ...’⁴⁶⁹
387. The Permanent Secretary said that ‘BSE research remained an absolute priority in the PES round . . . It was agreed that the Minister should invite in Dr Tyrrell for a valedictory meeting on these issues’.⁴⁷⁰ The Minister and Mrs Browning both expressed concern about reports of CJD among farmworkers. Mrs Browning added that ‘we should not be too dismissive . . . of the possible link between farming and CJD’.⁴⁷¹ 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’.⁴⁷² The meeting also agreed that it was ‘very important to liaise closely with the Department of Health and to keep Scottish and Welsh Offices informed’.⁴⁷³
388. On 1 November 1995, the Meat and Livestock Commission wrote to the Minister expressing their concern about SBO controls. Mr Render prepared a draft reply for the Minister on 6 November 1995.⁴⁷⁴
389. On 3 November 1995, Mr Hogg wrote to the Cabinet Sub-Committee, EDC(P), to inform them about the discovery of breaches of the SBO regulations.⁴⁷⁵

⁴⁶⁷YB 95/11.1/5.1-5.4

⁴⁶⁸ YB95/11.1/5.1 at para 4

⁴⁶⁹ YB95/11.1/5.1 at para 5

⁴⁷⁰ YB95/11.1/5.1 at para 10

⁴⁷¹ YB95/11.1/5.1 at para 11

⁴⁷² YB95/11.1/5.1 at para 11

⁴⁷³ YB95/11.1/5.1 at para 14

⁴⁷⁴YB 95/11.1/6.1-6.2, YB 95/11.6/4.1-4.4

390. On 3 November 1995 Mr Render minuted Mr Strang enclosing a draft covering letter (addressed to the Deputy Prime Minister) for the EDC(P) paper on BSE.⁴⁷⁶ The draft covering letter discussed the recent surveillance visits by the SVS to slaughterhouses stating that:

‘[These visits] have revealed a number of failings in the handling of specified bovine offals (SBOs)....

In the recent SVS audits we found four instances where small pieces of SBO (spinal cord in all cases), was left attached to carcasses in slaughterhouses after dressing.... This is a potentially serious failing, as it could risk exposing the public to SBOs

Where serious failings are found they [the MHS] will prosecute slaughterhouse operators..... Given the potentially serious nature of some of the failings, I am minded to issue to the Chief Executive a formal instruction to ensure that his staff enforce the regulations rigorously.’⁴⁷⁷

391. On 6 November 1995, Mr Hogg met Mr Johnston McNeill, Chief Executive of the Meat Hygiene Service (MHS).⁴⁷⁸ Mr Hogg gave a formal instruction to the MHS regarding the enforcement of the SBO regulations and,

‘...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.’⁴⁷⁹

The minute continued:

‘The Minister made clear that Mr McNeill should not hesitate, where appropriate to prosecute ... [The] research findings implied that even a very small amount of BSE could have serious implications...’

392. Mr McNeill said he would immediately ‘issue instructions to MHS staff stressing the importance of 100% compliance’.⁴⁸⁰ Mr Carden agreed that ‘we could not tolerate anything less than 100% compliance’.⁴⁸¹

393. Mr McNeill said that, ‘in terms of the technology, there was no reason for non-compliance. There were, however, operational implications.’⁴⁸² These operational implications were likely to slow turnover significantly

⁴⁷⁵ The minute does not appear in the yearbooks; but see YB95/11.28/16.1.

⁴⁷⁶ YB95/11.03/11.1

⁴⁷⁷ YB 95/11.03/11.2-11.3

⁴⁷⁸ YB95/11.08/11.1-11.2; S327 Hogg para 37

⁴⁷⁹ YB95/11.08/11.1 at para 2

⁴⁸⁰ YB95/11.8/11.1 at para 3

⁴⁸¹ YB95/1.8/11.1 at para 5

⁴⁸² YB95/11.08/11.1-11.2 at para 5; S327 Hogg para 37; T91 p.112-113

in some plants and to avoid this, more inspectors would be needed which would 'in turn imply an extra cost for MAFF. The Minister asked whether the MHS had access to sufficient staff. Mr McNeill said that there was no problem in terms of recruitment and availability.'⁴⁸³

394. In evidence Mr Hogg stated:⁴⁸⁴

'If you take the Meat Hygiene Service, it was possible for Angela 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.'

395. On 7 November 1995, Mr John Pratt, President of the Association of Meat Inspectors (GB) Ltd, wrote to all members stressing the importance of full compliance with the SBO regulations.⁴⁸⁵

396. To help prepare Dr Calman for the meeting with Mr Hogg on 7 November, Mr Lister prepared a minute about a paper on BSE/CJD that had gone to the Cabinet Sub-Committee, EDC(P). The minute discussed the differences in wording proposed by DH and MAFF, which Mr Lister said was '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'.⁴⁸⁶

397. On 7 November 1995, Dr Calman and Dr Metters met Mr Hogg, Mrs Browning, Mr Packer and Mr Osborne. Mr Hogg informed Dr Calman of 'the likely findings of the October SVS audit of the handling of SBOs in slaughterhouses: this merely confirmed the need to take decisive action'.⁴⁸⁷

398. Dr Calman expressed his concerns. He said that the origins of the disease were not understood well enough. Although the science was reassuring, he was concerned about the cases in farmers with BSE in their herds and in young people, and the fact that cases of BSE were not dropping off as predicted.⁴⁸⁸ He was also worried about controls at the slaughterhouse and at the feedmill. The note of the meeting recorded his view that:

⁴⁸³ YB 95/11.8/11.2 at para 5

⁴⁸⁴ T95, pp.40-41

⁴⁸⁵ YB 95/11.7/5.1

⁴⁸⁶ YB95/11.7/7.1 para 4; see also S179 Calman para 100.

⁴⁸⁷ YB95/11.9/6.1 at para 2

⁴⁸⁸ YB95/11.9/6.2 para 3

‘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.’⁴⁸⁹

399. Dr Calman felt that the processes to control SBOs which were now in place were satisfactory, but that those in the past had not been. Dr Calman ‘found the attitude of the farming industry and slaughterhouses astonishing, particularly given the threat to the whole future of the sector’. Dr Metters said that he had noticed MAFF’s attitude change over the last six weeks: ‘there was now no inclination to tolerate any failure to remove SBOs’. Mr Hogg told of his meeting with Mr McNeill the previous day, that he had told Mr McNeill not to hesitate in prosecuting if the evidence justified doing so and that Mr McNeill had said that there were no technical reasons why the industry should not be able to comply with the regulations. Mr Hogg added that he would shortly be seeing representatives from the slaughterhouse industry, and that his message would be ‘uncompromising’.⁴⁹⁰

400. Dr Calman told the BSE Inquiry:

‘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.’⁴⁹¹

401. Mr Hogg gave the following evidence to the Inquiry:

SIR NICHOLAS PHILLIPS: ‘It seems to me what Dr Calman is saying here is, ‘I am happy to say it is safe to eat beef. I am certainly not happy to say it is safe to eat offals, and what is worrying me is it looks as though some of these offals have been getting into the food chain’.

MR HOGG: It worried me too and that is why I took the action I did.

MR WALKER: Did you understand him to be saying that there was any change in his perception of the risk from SBOs, as opposed to the risk of SBOs getting into what humans eat?

⁴⁸⁹ YB95/11.9/6.2 para 4

⁴⁹⁰ YB95/11.9/6.3 para 6

⁴⁹¹ S179 Calman para 101

MR HOGG: What you are putting to me I think is: was he changing his position on transmissibility? That is what you are putting to me, are you not?

SIR NICHOLAS PHILLIPS: Did he think the belt was being nibbled?

MR HOGG: Exactly. That is, I think, the question that is being put to me. I think the answer to that is no, not at that stage, but he was concerned about leakage of SBOs and I agreed with him. It was a serious matter.⁴⁹²

402. On 8 November 1995, Mr Soul wrote to all OVSs in the following terms:⁴⁹³

‘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.’

403. On 8 November 1995, the Veterinary Public Health Association also wrote to all OVSs regarding the SBO controls.⁴⁹⁴ Martin Cooke, President of the VPHA, wrote to lend his support to the actions being taken by the MHS to ensure fully effective control of the handling, separation and staining of SBO’s in licensed beef premises.

404. Also on 8 November 1995 Mr Hogg wrote to Mr McNeill to repeat his concerns at breaches of SBO regulations, and instructed him ‘in accordance with the provisions of paragraph 4.3 of the Meat Hygiene Service’s framework document, 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 carcass before they give it a health stamp. Failure to do so should be viewed extremely seriously.’⁴⁹⁵

⁴⁹² T95 Hogg pp.66-67

⁴⁹³ YB 95/11.8/6.1

⁴⁹⁴ YB 95/11.8/6.2

⁴⁹⁵ YB95/11.8/8.2 para 2

405. On the same day, Mr McNeill wrote to all MHIs and SMHIs regarding the specified bovine offal controls.⁴⁹⁶ The letter stressed the importance of SBO controls, and ended by stating:

‘YOU MUST NOT APPLY THE HEALTH MARK TO ANY BEEF SIDE YOU UNLESS ARE ABSOLUTELY CERTAIN THAT ALL THE SPINAL CORD HAS BEEN REMOVED.’

The letter also stressed that any failure on the part of MHIs to comply fully with their responsibilities would be dealt with as a serious disciplinary matter and could ultimately lead to dismissal.

406. The letter further stated that if staff were obstructed in any way by plant management whilst carrying out their instructions, they were to record the incident in their day book, 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. Finally, the letter indicated that there had been discussion on these matters with Unison and the Association of Meat Inspectors, and that full agreement had been reached as to the actions which were to be taken.

407. On 9 November 1995, Mr Fleetwood’s report to Dr Cawthorne on the October round of checks on SBO removal at slaughterhouses was circulated.⁴⁹⁷

408. Also on 9 November 1995, Mr Hogg met representatives of slaughterhouse operators ‘to discuss some failings found in the handling of specified bovine offals.’⁴⁹⁸ The note of the meeting records that the Minister was,

‘insisting on 100% compliance . . . The industry should be clear about this: prosecutions would be undertaken. There would be no further warnings.[The industry representatives] said that the Minister was preaching to the converted, [and acknowledged that] the system had not in the past always operated as it should have. However, there had been significant improvements since the MHS took over responsibility. [The industry] were right behind MAFF and would comply [but insisted that] it was not possible, with the best will in the world, to prevent very small amounts of SBO material passing unnoticed’⁴⁹⁹.

The industry pressed for the costs of SBO removal to be borne by Government or by EU funds. The Minister continued to insist that compliance must be absolute and that it would be for the slaughterhouses to bear the costs, at least in the first instance.⁵⁰⁰

⁴⁹⁶ YB 95/11.8/6.3

⁴⁹⁷ YB 95/11.9/4.1-4.3

⁴⁹⁸ YB95/11.09/9.1

⁴⁹⁹ YB95/11.10/5.1 at para 15

⁵⁰⁰ YB90/11.10/5.1-5.5

409. In evidence Mr Hogg recalled:⁵⁰¹

I called them in. It was a fairly sanitised report by Frank Strang. It was a fairly tough meeting. I read the riot act. It is all in the documents. 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.

410. In the press release issued afterwards, he said:⁵⁰²

'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.'

411. On 10 December 1995 Mr Robb sent two minutes to Dr Calman's private secretary, copied to Dr Metters, Dr Wight and Mr Clark, about the possible CMO statement that Dr Wight and Mr Lister had drafted on 24 October.⁵⁰³ 'Minor' amendments had been received from MAFF and incorporated.⁵⁰⁴ Dr Wight had suggested a revision be used as Press Office line over the weekend, if pressed.⁵⁰⁵ The revised draft said that it was impossible to be certain that SBO had,

'not entered the food chain. However, it is exceedingly unlikely that this has happened to any great extent and I am reassured by the steps taken to ensure that it does not happen in the future. I remain satisfied that there is no scientific evidence of a link between meat-eating and the development of CJD in humans.'⁵⁰⁶

412. On 16 November 1995 Dr Wight wrote to Mr Eddy in relation to the recent MAFF 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:

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.

⁵⁰¹ T95, page 72

⁵⁰² YB95/11.09/9.1; Reported in the *Times* at YB95/11.10/17.1 and the *Telegraph* at YB95/11.10/18.1; see also YB95/11.10/11.1.

⁵⁰³ YB95/11.10/22.1-22.3; YB95/11.10/24.1-24.3

⁵⁰⁴ YB95/11.10/23.1-23.2; YB95/11.10/24.1-24.3

⁵⁰⁵ YB95/11.10/24.1 para 2

⁵⁰⁶ YB95/11.10/23.2

1st three indents under “Protection 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 requirements. This must cast doubts on the safety of some products for human (and animal) consumption.⁵⁰⁷

413. On 20 November 1995, there was a meeting between Mr Meldrum, Mr Taylor, Dr Matthews of MAFF, Mr Wells of the CVL and Drs Calman, Metters and Wight of the Department of Health. They discussed the progress of transmission studies. They also discussed MRM. Mr Meldrum said the concern arose because of the possible inclusion of small residues of spinal cord. However, it was observed that ‘SEAC had visited slaughterhouses and had decided that it was not necessary to recommend a ban’.⁵⁰⁸

414. Mr Meldrum discussed the audit checks which were being undertaken by MAFF in slaughterhouses, which had revealed “some problems related to spinal cord”.⁵⁰⁹ The note of the meeting records that:⁵¹⁰

‘[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 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.’

415. 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. However, it was agreed that MRM was an issue which needed to be revisited and this would be put to the SEAC at its meeting on 23 November.⁵¹¹

416. On 22 November 1995, Mr Hogg made public, by a response to a PQ, the results of the SVS’s unannounced visits to slaughterhouses. He said:⁵¹²

‘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 after dressing. So far, we have found 17 such instances, including one found during preliminary visits in the summer and five found up to 10 November and one on 20 November in the latest round of visits’

⁵⁰⁷ YB95/11.16/10.1

⁵⁰⁸ YB95/11.24/3.2

⁵⁰⁹ YB95/11.24/3.4 para 11

⁵¹⁰ YB95/11.24/3.4 para 11

⁵¹¹ YB95/11.24/3.4 para 12

⁵¹² YB95/11.22/14.1-14.2

417. The Minister went on to outline the steps he had taken to ensure full compliance: he had asked the MHS to ensure ‘most rigorous’ enforcement of the SBO Order and to prosecute failing slaughterhouses where it has sufficient evidence; he had asked the SVS to double the frequency of its unannounced visits; and he had met slaughterhouse operators on 9 November ‘to impress on them the need for full compliance with these controls’.⁵¹³
418. On 22 November 1995 Mr Eddy replied to Dr Wight’s letter dated 16 November 1995 concerning the MAFF paper for EDC(P). Mr Eddy stated that it was not an overstatement to say, “All BSE suspect animals are killed”; since all reported animals which receive a preliminary diagnosis of BSE are slaughtered.⁵¹⁴ On the other hand, he stated it would be an overstatement 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 manifestation of any detectable symptoms”⁵¹⁵. It is for this precise reason, he stated, that the SBO ban was in place, adding:
- 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.⁵¹⁶
419. Also on 22 November 1995, Dr Metters minuted Dr Wight about the meeting of SEAC on the following day. The minute was copied to PS/Baroness Cumberlege, PS/Dr Calman, Dr Skinner, Mr Sutherwood, Mr Clark and Mr Robb. Dr Metters said that Ministers wanted advice from SEAC on three issues:⁵¹⁷
- ‘a. in the light of the number of failures to remove [SBOs] in slaughterhouses, what is SEAC’s view about the potential risk to human health from MRM? Ministers wish CMO to have SEAC’s advice on this specific point in case he (CMO) is asked that particular question.
 - b. do SEAC have any further advice or explanation of the number of farmers with CJD. You will be aware that CMO is asked about the labelling of animal feeds. A further question relates to SEAC’s advice and comments on recent cases of CJD among teenagers.
 - c. arising from SEAC’s review of research, what further studies do they now recommend to Ministers.’

⁵¹³ YB95/11.22/14.1

⁵¹⁴ YB95/11.22/11.1 at para 2

⁵¹⁵ YB95/11/22/11.1 at para 3

⁵¹⁶ YB95/11/22/11.1 at para 3

⁵¹⁷ YB95/11.22/6.1 at para 3

420. The minute passed on Mr Dorrell's emphasis that SEAC's advice was for Ministers:⁵¹⁸

'It was essential that any conclusions reached were not communicated direct to the public, despite the fact that SEAC is known to be meeting tomorrow.'

421. 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. This was a worse result than those of the earlier surveys. In his evidence to the BSE Inquiry, Mr Eddy reported that SEAC were 'appalled' by this because they had been reassured about 'this sort of thing', and felt that they had been given assurances that the chances of this happening were very low. Mr Eddy went on to say:⁵¹⁹

'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 pre-decessor had given had been in good faith and on the basis of the information we had. Personally I felt as disappointed as the Committee.'⁵²⁰

422. SEAC's advice regarding MRM was as follows:⁵²¹

'Earlier in 1995 SEAC had concluded that 'provided in the slaughtering process the removal of the spinal cord was done properly, the 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 carcasses 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.'

423. Following the receipt of SEAC's advice MAFF held meetings on 27 and 28 November 1995. Discussion at these meetings concerned the introduction of an Order banning the use in food of mechanically recovered meat from the vertical column of cattle (to apply to MRM from all bovines; not just those aged over 6 months as in the SEAC recommendations).⁵²² Consultation with industry representatives was also discussed.

⁵¹⁸ YB95/11.22/6.1 at para 4

⁵¹⁹ S109 Eddy para.92

⁵²⁰ S109 Eddy para 93

⁵²¹ YB95/11.27/7.4

⁵²² YB 95/22.27.1.1

424. On 30 November 1995 various MAFF personnel met with industry representatives concerning the latest advice from SEAC and introduction of an Order banning the use of vertebral column of a bovine animal (of any age) in MRM for human consumption. The purpose of this meeting was to listen to the industry's views.
425. On 14 December 1995, Mr Swann of the MHS presented to the editorial group his draft report on the MHS HAT exercise in red meat plants. It stated as follows:⁵²³

'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 carcasses. Bones containing spinal cord may be processed into animal feed, providing a possible source of infection to cattle...'

The draft report continued:

'Contamination on carcasses awaiting despatch reflected poor dressing practices and debris on oil rails etc. Inspection deficiencies included procedural irregularities and SBO retention, in a number of plants, especially those with fast line spreads.'⁵²⁴

426. It was noted that the vast majority of plants do not mark waste buckets or bins in the cutting room 'unfit for human consumption' or 'SBO', deficiencies which should be rectified.'
427. The final published report, entitled 'Review of the Hygiene Advice Team Audit of Licensed Slaughterhouses in Great Britain 1995', makes no mention of SBO controls other than to say that 'SBO removal in the slaughterhall was carried out in accordance with the legislation'.⁵²⁵

Events in 1996

428. On 4 January 1996, Mr Fleetwood minuted Dr Cawthorne with the third routine report on the outcome of SVS surveillance of SBO.⁵²⁶ Mr Fleetwood commented:

'Once again, a significant improvement in SBO disposal has been recorded compared with the previous month. Very few problems are now being recorded other than a few lingering defects in staining and record keeping. The results for rendering plants appear poor at first glance, but with only

⁵²³ M22A, Tab 6, p.20

⁵²⁴ M22A Tab 6 p.29

⁵²⁵ M22A Tab 6 p.29

⁵²⁶ YB96/1.4/2.1 at paras 3-4

three plants visited, a single failure has produced an unrepresentative result...

Looking at the results as a whole, I think that SVS field staff and MHS staff should be congratulated for their excellent performance which has resulted in significant improvements in the industry.'

429. On 20 March 1996, the MHS received a Ministerial Direction, which implemented the recommendations of SEAC to take all possible steps to ensure full and complete removal of SBM from beef carcasses. The Minister issued a new formal instruction in accordance with paragraph 4.3 of the MHS Framework Document⁵²⁷. The instruction to the MHS was to take all possible steps to ensure full and complete removal of specified bovine offal from carcasses, and in particular:
- (i.) There must be constant supervision at the point in the slaughter line where the spinal cord is removed, to ensure complete removal,
 - (ii.) MHS must ensure that where there was any evidence of contamination with SBO tissue, this was removed by cutting off the contaminated tissue and disposing of it as SBO; and also
 - (iii.) MHS must ensure that all visible traces of spinal cord were removed with particular care taken that no debris was left in the spinal canal or adjacent to the vertebral column. It was concluded that carcasses should be inspected more than once to achieve this.
430. Estimates were requested from the Meat Hygiene Service of the cost of covering the stricter standard of operation called for in the Minister's letter. Costings were provided to Mr Richard Carden on 21 March 1996.⁵²⁸
- (f)

⁵²⁷ YB 96/3.20/8.1-8.2

⁵²⁸ YB 96/3.21/3.1-3.8