



DFA 24

Public Pronouncements by the CMO on the human health implications of BSE, March 1993 and June 1994

Draft Factual Accounts

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PUBLIC PRONOUNCEMENTS BY THE CMO ON THE HUMAN HEALTH IMPLICATIONS OF BSE, MARCH 1993 AND JUNE 1994

This Draft Factual Account deals with two public statements by the CMO on the human health implications of, one in March 1993 and the other in June 1994. It sets out some background to these statements as well as the statements themselves. Further background information can be obtained from DFA 23 and DFA 26.

Introduction

1. On 23 August 1990 Dr Pickles informed Sir Donald Acheson by minute that a pig had been infected with spongiform encephalopathy as the result of experimental inoculation.¹ Dr Pickles informed the CMO that '[a]n urgent meeting is being called of the full Tyrrell committee'. Dr Pickles also stated that nine cases of FSE had been confirmed and that this suggested FSE was a new disease and 'exposure to BSE unlike exposure to scrapie has been hazardous for cats'.²
2. Dr Pickles stated in her statement to the Inquiry that:

'This new information on the susceptibility of additional species was probably the time that my opinion, together with others, hardened over the inadvisability of eating bovine offal.'³
3. Similarly Dr Metters said these results posed the question 'if pigs were susceptible what about other species including man?'⁴
4. At this time Sir Kenneth Calman was CMO for Scotland. In oral evidence to the Inquiry, he stated:⁵

¹ YB 90/8.23/1.1-1.2

² YB 90/8.23/1.1-1.2 para 5

³ S Pickles 1 (WS No. 115) para 61.5

⁴ S Metters 1 (WS No. 116) para 81

⁵ T66, pages 26-27

‘I think it is remarkably difficult to make judgements about species transmissibility, simply because they are different. The pig, I think, might have been more interesting than the cat, as it happens, because pigs are in some ways interesting animals in relation to human and human disease, and indeed human transplantation for example. I think it did no more than alert me to the fact that this remained a possibility and to be vigilant.’

5. At the special meeting on 7 September 1990, SEAC considered the implications of the preliminary results of the transmission study of BSE to pigs. The Committee considered that it was very difficult to draw conclusions from one experimental result for what may happen in the field. However, the report of the meeting recorded that:

‘5. Although the relationship between BSE and the finding of a spongiform encephalopathy in cats had yet to be demonstrated, the fact that this had occurred suggested that a cautious view should be taken of those species which might be susceptible. The ‘specified offals’ of bovines should therefore be excluded from the feed of all species. Many feed compounders and pet food manufacturers were already applying such an exclusion in practice.

6. Pigs, and other species, would in particular have been exposed for many years to material from scrapie-infected sheep without apparently developing a spongiform encephalopathy. Therefore there were no grounds for extending the ban on the use of ruminant protein to non-ruminants, providing the specified bovine offals had been excluded.

7. There were no new implications for human health in the fact that a pig had shown itself susceptible under laboratory conditions...’⁶

6. At the 5th Meeting on 19 September 1990⁷, the full Committee approved the minutes of the 7 September 1990 meeting. They also agreed a statement to be conveyed to MAFF and DH saying:

‘...pigs should no longer be fed with protein derived from bovine tissues which might contain the BSE agent, ie, those bovine “specified” offals that are already excluded from human consumption. It would make sense to extend this prohibition to feed for all species, including household pets, as a number of other species have now developed spongiform encephalopathies. ...

As far as human health is concerned, we do not believe that this interim result requires any further action to be taken.’⁸

7. In his statement to the Inquiry, Sir Kenneth Calman stated:

‘In September 1990 The BSE (No.2) Amendment Order 1990 extended the ban on the use of specified bovine offals to any animal feed. This action was taken following SEAC’s advice in the light of experimental

⁶ YB90/9.7/1.3-1.4

⁷ YB 90/9.19/2.1-2.5

⁸ SEAC 5/7, para 3 & 4

transmission on from cattle to one pig with infected brain tissue following parenteral challenge. That advice was that notwithstanding that there were no new implications for human health in the fact that a pig had shown itself susceptible under experimental conditions, new legislation was to be recommended as an ultra precautionary measure.’⁹

1991

8. In September 1991 Sir Kenneth Calman became the Chief Medical Officer for England.¹⁰

1992

9. On 14 February 1992 Mr Murray minuted the PS/CMO informing him of the successful laboratory transmission of BSE to a primate (marmoset). Mr Murray said that ‘news of this development has not yet been made public but there is always a risk that details will leak out and attract media attention before a formal DH/MAFF co-ordinated announcement’. He attached a background note by Dr Wight which included:

‘...’

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

...

Action

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

The MRC are not releasing a press statement today and we are waiting for confirmation of the MAFF line. We understand they will wish to wait until next week before making this information public. It is vital we at DH co-ordinate our response with MAFF, though perhaps in this instance our interest might be greater than MAFF’s as primates are one step removed from humans.

LINE TO TAKE

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

⁹ S Calman 1 (WS No. 179) para 31

¹⁰ S Calman 1 (WS No. 179) para 39.

At this stage there would seem to be no significant implications for present BSE control measures. However, the Tyrrell Committee has been asked to give special consideration to the study results.’¹¹

10. Sir Kenneth Calman said in his statement to the Inquiry that his view was that ‘these experiments were significant in the fact that they extended the host range of experimental BSE to include a primate species’.¹² Sir Kenneth said in his oral evidence that the result of the marmoset research was:

‘Another bit of evidence, albeit experimental, which simply confirmed the fact that transmission was possible. But it also provides me with an opportunity of saying how that would be dealt with. And that would be that we would have asked, as we did, SEAC and any other expert committee to give us that advice. We relied very heavily on independent experts’ advice to look at the data, give us their views from which we could help Ministers take things forward. They did look at that and concluded that no further action was required at the time.’¹³

11. SEAC completed an Interim Report on Research in April 1992, which was published in June 1992.¹⁴ Comments in relation to this Report made in a statement to the Inquiry provided by Sir Kenneth Calman included :

‘(1) The Report stated that:-

“There remains no evidence to suggest that the human disorders are causally associated with those in animals.”

(2) SEAC considered the then current UK-sponsored research and also referred to initiatives underway in the international field.

(3) Under ‘Review of Research in Progress’ SEAC emphasised that:-

“Detailed examination of the relevant studies indicates in our view that there are no inappropriate overlaps; that all the high priority studies have been started, and that satisfactory progress has been made in implementing the recommendations of the Interim Report.”

(4) SEAC recognised the difficulty in researching the biology of a disease which is still unknown, in stating that:-

“We remain convinced that epidemiology must remain a high priority and believe that the current BSE epidemic provides a unique and challenging problem for epidemiologists.”

(5) SEAC considered the ‘Continuing work of the Committee in the Research Field’ and clearly stated that:-

¹¹ YB 92/2.14/3.1-3.3 – This experiment was subsequently reported by Wells *et al* in the April 1993 *Veterinary Record* (J/VR/132/403-406)

¹² S Calman 1 (WS No. 179) para 42

¹³ T66 at pp 97-98

¹⁴ IBD 13

“We regard collaboration and exchange of ideas between different scientific groups as important and commend the cross-fertilisation that is now taking place between those whose prime interest is in the animal disorders and those working on the human disorders.”

(6) SEAC concluded that:-

“At present, the Committee are satisfied that all the necessary safeguards are in place to minimise further spread of transmissible spongiform encephalopathies in animals and to prevent any risk of transmission to humans.”¹⁵

12. In relation to this report, Sir Kenneth Calman’s statement to the Inquiry also included the following:

‘SEAC’s Report was clear in its views. As CMO England I was reassured that the Department of Health had taken the steps previously called for by SEAC to consider and minimise the incidence of BSE and to safeguard the public health from any risk, if it existed at all, of transmission to humans in the form of CJD. In the light of the SEAC report, I sought confirmation of the advice that the Department of Health had issued previously in 1990 concerning the safety of beef. I subsequently received confirmation from SEAC that they were not aware of any findings that altered the assurances given by my predecessor Sir Donald Acheson in May 1990, namely that British beef can be eaten by everyone.’¹⁶

13. In June 1992 the first annual report of the CJD Surveillance Unit Report was produced. The section of the report entitled ‘Conclusions’ includes the following:

‘Descriptive epidemiological data is now available on Creutzfeldt-Jakob disease in the UK between 1980 and April 1992. There has been no significant change in the incidence of CJD, the clinical features of CJD, or the geographical distribution of cases. Analysis of the occupational distribution of cases in the first two years of the prospective study, including a case-control study, show no significant increase in the risk of CJD in relation to specific occupations. There is currently no evidence of any change in the epidemiological characteristics of CJD following the advent of Bovine Spongiform Encephalopathy (BSE).’¹⁷

14. On 4 August 1992 Dr Wight, the Senior Medical Officer in HEF(M)1, minuted Dr Roger Skinner and Ms Lockyer. Dr Wight stated that the Department of Health had recently been made aware on a medical in confidence basis of a case of probable CJD in a 55 year old farmer who had had a dairy cow with BSE on his farm. In her minute Dr Wight stated:

‘I must emphasis that the diagnosis has not been confirmed and this is the line we would need to take. There is no direct evidence that the two events (BSE and CJD) are linked and Dr Will feels they are probably a

¹⁵ S Calman 1 (WS No. 179) para 44

¹⁶ S Calman 1 (WS No. 179) para 45

¹⁷ IBD15 (vol IBD2 tab 4 page 16)

coincidence. However we cannot be sure, and the media could well seize upon it before or after the patient dies.’¹⁸

15. On 13 August 1992 Dr Wight minuted the CMO and asked him to consider speaking to the CVO personally about this development given the need for confidentiality.¹⁹ This minute also set out a suggested line to be adopted, which was that there was no scientific evidence to link BSE with CJD and that the information about the dairy farmer did not change that:

‘We are aware of the development of probable CJD in a farmer, though the diagnosis has not been confirmed. To date, there is no scientific evidence to link BSE with the human illness CJD and the information available in this case does not change this situation.’²⁰

16. In his statement to the Inquiry, Sir Kenneth Calman recalled:

‘The National CJD Surveillance Unit had already been notified and had advised that, if the case was confirmed, it was probably inevitable from a statistical point of view that this would happen sooner or later. ... At this time consideration was being given as to whether there may be greater occupational risks to those employed in the farming and meat industry. However, SEAC considered this particular case and their views remained unchanged. It was confirmed subsequently that this was a typical sporadic case of CJD.’²¹

17. On 13 August 1992 Sir Kenneth alerted the Press Office, Ministers, MAFF and the International Division of the Department of Health to this development.²²

18. On 23 October 1992 Ms Diana Dunstan, Director of Research Management (MRC), presented Sir Kenneth with a paper outlining the results of a series of ongoing experiments that revealed the transmissibility to marmosets of two degenerative diseases: Alzheimer’s Disease and Gerstmann-Straussler-Scheinker Syndrome.²³ The paper, prepared by Dr Ridley, stated:

‘SAFETY

At this point we would like to stress again the lack of evidence relating Alzheimer’s disease to exposure to brain tissue through neurosurgery or occupation. Nevertheless it is appropriate that the proper bodies should consider whether the results of [the] experiments have any implications for human health.’

¹⁸ YB 92/8.04/3.1

¹⁹ YB 92/8.13/2.1-2.2

²⁰ YB 92/8.13/2.1-2.2, para 4

²¹ S Calman 1 (WS No. 179) para 49.

²² YB 92/8.13/2.1 – 2.2; S Calman 1 (WS No. 179) para 49

²³ YB 92/10.23/1.1-1.5; S Calman 1 (WS No. 179) para 50.

19. Sir Kenneth directed that further consideration be given to the scientific issues and the implications for the Department of Health in view of continuing public concern and persistent media interest over the BSE epidemic.²⁴

1993

20. On 26 February 1993 the CMO was informed of the forthcoming publication of details of the dairy farmer's case in the *Lancet*²⁵ within 'the next couple of weeks'.²⁶ Administrators within the Department of Health repeated the line to take which had been suggested following the confirmation of the diagnosis of CJD in the farmer.²⁷
21. On 1 March 1993 Sir Kenneth was told that the case report would be published in the *Lancet* medical journal on 6 March 1993.²⁸
22. Mr Robert Crighton, of Mrs Bottomley's private office, advised MAFF on 4 March 1993 that the Minister had agreed that the CMO should deal with press enquiries relating to the dairy farmer with CJD, and that it was believed that this was already in hand.²⁹
23. In the *Lancet* article published on 6 March 1993 Dr Will *et al* reported:

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

The course of symptoms and signs in our case, the investigations (including electroencephalography) and the necropsy findings are consistent with previous experience in CJD. Risk factors for CJD, including iatrogenic transmission and genetic predisposition, have been largely excluded by the history and gene analysis. The Southwood Committee recommended surveillance of specific occupational groups

²⁴ S Calman 1 (WS No. 179) para 51

²⁵ S Calman 1 (WS No. 179) para 53.

²⁶ YB 93/2.26/1.1-1.2

²⁷ YB 93/2.26/1.1-1.2

²⁸ YB 93/3.1/2.1

²⁹ YB 93/3.4/2.1

because of the risk of direct inoculation of bovine tissue. The history suggests no such occurrence in our case and the only possible direct route of cross-contamination was by drinking milk. Milk does not contain detectable titres of infectivity, even from animals clinically affected with natural diseases and epidemiological evidence (eg, the absence of vertical transmission in kuru after breastfeeding) largely precludes milk as a route of transmission in spongiform encephalopathies.

CJD in our case is most likely to have been a chance finding and a causal link with BSE is at most conjectural.³⁰

24. Sir Kenneth Calman became aware through MAFF that there remained continued speculation that the BSE agent may be transmissible in milk:

‘This issue was subsequently considered by SEAC on 22 April 1993 who confirmed that epidemiological evidence from beef and dairy herds and from the human population did not suggest milk transmits the disease, and that this was supported by experimental data and therefore concluded that they were in a position to endorse the view that milk does not pose a risk.’³¹

25. Press coverage of the death of the farmer increased on 9 March³² and 10 March 1993.³³ In an article in the *Telegraph* on 9 March 1993, Dr Will was reported as saying that this case ‘could just be a coincidence’, while Kevin Taylor (the assistant Chief Veterinary Officer) said he did not think a link between BSE and the death of the farmer was ‘even conjectural’. The Ministry of Agriculture was reported as saying ‘there are no implications for human or animal health’, in the farmer’s death.

26. Sir Kenneth Calman met Mr Gummer to discuss a possible press release. Sir Kenneth said in his statement to the Inquiry:

‘In view of the fact that this event resulted in intense media interest, I met with Mr Gummer to discuss the release of a Press statement to allay public fears. ... We both agreed that it was necessary to reassure the public that previous advice had been reconsidered and remained unaltered...’³⁴

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

‘I subsequently met with the CMO, Dr Kenneth Calman, to discuss these reports. We agreed that given the press speculation it was important that the CMO should issue a press release making it plain that the Tyrrell committee had considered this case, which had been reported to the

³⁰ J/L/341/642

³¹ S Calman 1 (WS No. 179) para 54.

³² See articles in the *Daily Telegraph* and *The Times* at YB 93/3.9/1.1 and YB 93/3.9/2.1

³³ See articles in the *Daily Express*, *Today* and the *Daily Mail*, on 10th March 1993; YB 93/3.10/4.1, YB 93/3.10/5.1 and YB 93/3.10/6.1

³⁴ S Calman 1 (WS No. 179) para 54.

National CJD Surveillance Unit in August 1992, and had advised that it did not alter the advice that had previously been given.’³⁵

28. On 10 March 1993 a briefing on the case of CJD in a farmer was prepared for the Prime Minister and the Lord President by Department of Health administrators.³⁶ The briefing had been cleared with medical colleagues in HEF(M)1 and copied to Mr Maslin at MAFF. The briefing repeated the line to take which had been suggested in previous minutes relating to the death of the farmer:

‘The Government are aware of a confirmed case of CJD in a farmer, who had a cow with BSE. To date there is no scientific evidence to link BSE with the human illness CJD and the Tyrrell Committee have advised that the information available in this case does not change this situation.’³⁷

29. In the afternoon of 11 March 1993, Sir Kenneth Calman made a statement, which repeated the assurance about the safety of beef given by his predecessor, Sir Donald Acheson, on 16 May 1990.³⁸ Dr Metters was involved in discussing drafts of this statement and agreed with the wording selected by the CMO.³⁹ The statement read:

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

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

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

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

NOTES FOR EDITORS

Cases of Creutzfeldt-Jakob Disease (CJD) are notified by Consultants to Dr R G Will of Edinburgh. Dr Will is running a long-term study of CJD funded by the Department of Health: this should allow detection of any spread of infection to humans, although this possibility is considered remote. In June 1992 Dr Will submitted a report to Parliament on the

³⁵ S Gummer para 275.

³⁶ YB 93/3.10/3.1-3.2

³⁷ YB 93/3.10/3.2

³⁸ YB 93/3.11/1.1

³⁹ S Metters 1 (WS No. 116) para 106

results of his study into the incidence of CJD in the UK, the conclusion of which is as follows:

“Descriptive epidemiological data is now available on CJD in the UK between 1980 and April 1992. There has been no significant change in the incidence of CJD, the clinical features of CJD, or the geographical distribution of cases. Analysis of the occupational distribution of cases in the first two years of the prospective study, including a case-control study, show no significant increase in the risk of CJD in relation to specific occupations. There is currently no evidence of any change in the epidemiological characteristics of CJD following the advent of Bovine Spongiform Encephalopathy (BSE)”.⁴⁰

30. A supplementary statement provided to the Inquiry by Sir Kenneth Calman includes the following in relation to his public statement in 1993:

‘31. As the Inquiry will be aware, the press statement was specifically prepared following intense media speculation surrounding the first reported case of CJD in a dairy farmer published in the *Lancet* on 6th March 1993. [YB93/3.6/1.1]

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

33. As a result of these committees’ detailed considerations of developments in the spread of BSE and research reviews, recommendations were made to Government which were adopted and published within a short period. This process commenced at the time of the establishment of the Southwood Working Party in May 1988, who published their findings in February 1989 [IBD2 (vol IBD1 tab 2)]. The Inquiry will be aware of the conclusions reached by the Southwood Working Party at the outset, not least the acknowledgement by them that the spread of BSE had potential implications for human health.

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

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

⁴⁰ YB93/3.11/1.1

health and designed ultimately to protect against an acknowledged remote possibility of transmissibility.

36. It is only against this background that my 11th March 1993 statement can be viewed. [YB93/3.11/1.1]

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

38. The press statement I made [YB93/3.11/1.1] sought simply to set out my advice as Chief Medical Officer as to the position at the time, taking into consideration all the measures presently in place and having consulted with the Government's expert advisory committee SEAC. I emphasised in that press statement there was no scientific evidence of a causal link between BSE in cattle and CJD in humans. I confirmed that SEAC had considered the case in question and had advised that this did not alter the advice that had previously been given. I went on to state that the advice issued on 16th May 1990 by the previous Chief Medical Officer [YB90/5.16/1.1] – that beef could be eaten safely by everyone, both adults and children, including patients in hospital, remains valid. The Inquiry will recall, however, that I went on to say that the Department continued to monitor developments in this area closely and would consider all new evidence as it emerged. I added that I was confident that all necessary action had been taken to safeguard public health.⁴¹

31. In his oral evidence to the Inquiry, Sir Kenneth defined his understanding of the word 'safe' as follows:

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

⁴¹ S Calman 2 (WS No. 179A) paras 31-38

actually stopped eating beef for example. So, in ordinary parlance I think 'safe' certainly to me did not mean no risk.⁴²

32. When representatives of consumer organisations gave oral evidence, they were referred to the above oral evidence from Sir Kenneth Calman and asked whether they thought their members shared that perception. The following exchange took place:

'MRS KIMBELL: I think it is rubbish, absolute rubbish.

MR MATOVU: Does anybody dissent from that view?

MR SIMPSON: The difference is between a known risk and an unknown risk. The analogy we are driving is not a very good one because people know there is a risk when you drive that you might have an accident. The point about BSE is that the risk was unknown.

MR CRAMPTON: The other short difference is that as a citizen you can minimise your risk over driving, or going down the High Street, with the other analogy that was used by Sir Kenneth Calman. You can choose a driver when you travel, you can be adequately trained, you can be sober, you cannot have taken medication, you can drive in daylight. As far as the High Street analogy is concerned you cannot go down there late on a Saturday night. There was no known step that consumers could take to minimise their risk in relation to beef. In our organisation we understood when the statement was made 'beef is safe' we understood Ministers to mean that beef is as safe as is lamb or as is pork or as any other food to which no risk is believed to have applied.

MR PRENTICE: I think they would have been very interesting footnotes to Dr Calman's impression (?), had they been given this at the time, about what he actually meant by being safe. I do not think they were present.'⁴³

33. When Sir Kenneth Calman gave oral evidence the following exchange took place:

'SIR NICHOLAS PHILLIPS: ... Statements were being made that beef is safe or it is safe to eat British beef and those are statements we have discussed with lots of witnesses. The points were being made, those statements were being made on the assumption that precautions were in place which were being implemented which dealt with the possibility that BSE might be infectious to humans. To say 'beef is safe because we are dealing with what we think is an outside risk' is a different thing from saying 'beef is safe because it is impossible to transmit disease from beef to humans', but when on March 20th the announcement was made that there was grounds for thinking that the disease had been transmitted, the public reaction seems to have been that this shows the statements that were made about the safety of beef were unsound or inaccurate. Do you think, and this is a hindsight question, that there was not a sufficiently clear distinction made when statements were made about the safety of beef

⁴² T66 pp 8-9

⁴³ T74, pages 128-129

between a statement: 'The disease cannot be transmitted', and a statement: 'British beef is safe because in this country we are taking precautions to deal with the risk of transmission'?

SIR KENNETH CALMAN: I think it is probably more complex than that. And it is more complex because in statements made there seem to me to be four things that need -- that I certainly tried to cover. The first point is: what are the facts and the evidence? And what is the problem we are dealing with? And to, if you like, conclude from that the statement about beef. The second point is: what is the action that then is required to be taken? An SBO ban, mechanically recovered meat, whatever. The third point is to emphasise the importance of continuing research. Indeed, if you look back at some of the press statements, these are all covered. And the last point, which I certainly made continuously, is that if there is any change then I will let you know. So question one, what is the evidence on which you based the findings? And to take as wide a scientific view as you can on that at the end of which there may still be uncertainty, in fact considerable uncertainty. Indeed this whole Inquiry is about managing uncertainties as I see it. The second point then is what action do you take if you need to take any? Indeed in some instances there may be some action, no action to take. The FSE is a good one for that. There is a new finding, how do you assess it? You conclude that beef remains safe. No action is required other than the information that has already been handled, but we need more research and if anything changes I will tell you. These are the sort of four components of that that I think are really quite important.

SIR NICHOLAS PHILLIPS: Yes, I follow those components. What I was wondering was whether, as far as the public were concerned, the message they were getting is you cannot catch BSE from beef, period. Not: we are making quite sure that the bits which might possibly infect you are being removed.

SIR KENNETH CALMAN: I think it -- for me it was the latter, because that is why we had taken the action. Therefore it was implicit if not explicit that because of the possibility that beef might transmit the disease to humans, it was important to take action, feedstuffs, SBO ban and all the other things that have been introduced, that is why we did it. But having done that, we think that beef is safe, safe in these terms, in those terms not necessarily meaning zero risk.⁴⁴

34. On 23 March 1993 Mr Robert Lawson (MAFF, Animal Health (Disease Control) Division) wrote a minute to Miss Houghton (APS/Minister) in preparation for a 'Minister's Meeting to Review Progress On BSE' the following day. Mr Lawson suggested points that might be covered, including the following:

'(v) liaison with DOH. It was not easy to get the CMO to make a statement in response to recent press speculation about a possible link between BSE and human disease, and it might be worth considering how to ensure that in future they move more quickly.'⁴⁵

⁴⁴ T66 pages 44-47

⁴⁵ YB93/3.23/3.1

1994

35. On 22 June 1994 the CMO was notified by a minute from Mr Charles Lister of the finding ‘for the first time, that the BSE agent is present in bovine tissues outside the central nervous system.’⁴⁶ The minute said:

‘Early results...show that 5 mice injected with lower small intestine including lymphoid tissue (called Peyer’s patches) from cattle in kill 2 [6 months after exposure] have developed a spongiform encephalopathy.

...

[T]his finding is bound to renew public and media concern, both in the UK and in other Member States, that the agent might also be present in lymphatic tissue in meat currently sold for human consumption. It may also raise questions about whether the SBO ban should be extended to cattle under 6 months old.’

36. On 30 June 1994 the CMO and the CVO made a joint statement on BSE.⁴⁷ The statement outlined the history of BSE, control measures, research and surveillance, and the new data regarding BSE infectivity being detected outside the brain and spinal cord of cattle. The statement included the following:

‘Advice from the SEAC

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

“(a) On human health

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

(b) On animal health

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

It was also noted in relation to these conclusions that at this stage one cannot give a definitive answer. There is a theoretical risk and the Government could respond by a limited SBO ban for calves to exclude the intestines. The committee was also concerned that other tissues might carry infectivity and be used for human food but there

⁴⁶ YB 94/6.22/2.1-2.2

⁴⁷ YB94/6.30/3.4-3.7

was no evidence of this at the moment. The situation should be carefully monitored.”

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

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

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

Statement by the Chief Medical Officer on eating beef

16. I can reiterate what I have said previously.

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

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

37. In his statement Sir Kenneth Calman told the Inquiry:

‘On 30th June 1994 a joint announcement by MAFF and the Department of Health was made. The joint announcement released the fact of there being preliminary results and set out the fact that these had been assessed by myself and SEAC and the results of our considerations in relation to risks to human health. In addition, that joint announcement set out the Ministers conclusions upon our advice, namely that it was proposed to extend the scope of the existing ban on the use of specified bovine offals to the intestines and thymus of calves under the age of 6 months. It confirmed that the necessary orders would be made with the minimum of delay and reiterated that this action was purely precautionary. In addition to the joint announcement, myself and the Chief Veterinary Officer of MAFF, Mr

Keith Meldrum, issued a statement which detailed the findings from the ongoing research on BSE and the advices which we had received respectively. That statement outlined the action which I proposed in agreement with the Chief Veterinary Officer and confirmed that following receipt of the advice from SEAC, the matter had been considered thoroughly and that we had concluded that it would be consistent with the Government's policy of extreme caution on BSE to extend the definition of specified bovine offal to include the intestines and thymus of calves under 6 months of age. In relation to the continued eating of beef, I reiterated my previous advice.⁴⁸

38. In his statement Mr Meldrum told the Inquiry:

‘A joint announcement by MAFF and the DH was issued on 30th June, 1994 to announce the preliminary results of the pathogenesis study and reporting the advice received from both SEAC and the CMO. In addition, a statement from myself, as CVO, and the CMO was issued as a background document on BSE generally and the control measures in place and providing more detailed information about the experimental results and the advice of SEAC. This statement concluded with a separate statement by the CMO on eating beef, reiterating his earlier advice that ‘on the basis of the work done so far, there is no evidence whatever that BSE causes CJD and, similarly, not the slightest evidence that eating beef or hamburgers causes CJD’.⁴⁹

⁴⁸ S Calman 1 (WS No. 179) para 70

⁴⁹ S Meldrum 2 (WS No. 184A) para F120