



Common Frameworks Scrutiny Committee

Corrected oral evidence: Post-Brexit common frameworks

Tuesday 29 March 2022

10.30 am

Watch the meeting

Members present: Baroness Andrews (The Chair); Lord Bruce of Bennachie; Lord Foulkes of Cumnock; Lord Garnier; Lord Hope of Craighead; Baroness Mobarik; Lord Murphy of Torfaen; Baroness Randerson; Baroness Redfern; Baroness Ritchie of Downpatrick; Lord Thomas of Cwmgiedd.

Evidence Session No. 22

Heard in Public

Questions 282 - 299

Witnesses

[I](#): Sue Gray, Second Permanent Secretary at Cabinet Office; Tom Cartlidge, Head of UK Frameworks Division UK Governance Group at Cabinet Office.

Examination of witnesses

Sue Gray and Tom Cartlidge.

Q282 **The Chair:** Good morning, everybody. It is a great pleasure to see you all for this, our final oral session for the Common Frameworks Scrutiny Committee. We have a few absences this morning. Lady Crawley is not with us and neither is Lord Keen. However, I am absolutely delighted that we do have this morning Sue Gray, who is the Second Permanent Secretary at the Cabinet Office with responsibility for the union and for the constitution. We also have Tom Cartlidge, who heads up the division of the Cabinet Office that deals with common frameworks. A very warm welcome to you both—we know the pressures on your time and we are very grateful that you can be with us this morning.

It is our final session taking evidence on the making and the implementation of the common frameworks. It is appropriate that we do have you here, Sue, as the Second Permanent Secretary in the Cabinet Office with those responsibilities. You will know that we have had many exchanges of correspondence with Ministers, but sadly Mr Gove was not able to meet us in person so you are doubly welcome.

Our conversation this morning will reflect some of the conclusions that we have come to over the 18 months of our work. I am sure you will appreciate that the purpose and the process of the common frameworks has never been particularly high in profile and has never been very well understood. Because it emerged from the European regulatory system, there are many different moving parts; they move at different speeds, in different departments, with different approaches, different policies, different sets of relationships and different processes in terms of divergence. However, what seems to other people sometimes like a set of bureaucratic processes for avoiding disputes and co-ordinating divergence is very high politics, indeed, when it comes to the past, the present and the future of devolution. Of course, that is fundamentally what we are dealing with.

Our frustration has been pretty manifold as we have worked with a Cabinet Office that has been very supportive, with relevant departments, particularly Defra and BEIS, and the DAs over the past 18 months, not simply in terms of the process—although we have consistently stressed, and have seen improvements in the consistency and quality of frameworks and transparency, although that has been less of a success—but because we have come up against the frustration that has been caused by the Internal Market Act and most recently the Subsidy Control Act, both of which, as you know, pose something of a threat to the principles of devolution. Then of course there has been the Northern Ireland protocol and the way that that has intersected with the relationships, and the whole set of relationships between north and south.

It is complicated. All this has raised some very fundamental questions about governance across the UK and about the commitment the

Government have to making the frameworks as robust and sustainable as possible. We have reached the point where we have not been able to finish our scrutiny. The timetable has simply got away from us, as it always has. None of the deadlines was reached and we will have to finish our scrutiny with this session and get on to writing our second report. That report will reflect on both the concerns and ambitions that we had in the first report—that the frameworks could and should be used as a powerful agent for building a stronger union and more co-operative union. As a committee, we still believe that and, on that basis, that there is a continuing need for parliamentary accountability going forward. That is the span of issues that we have been concerned about and that we will raise with you in questions today. My colleagues will follow up, drawing on their expertise and their knowledge of what we have heard and seen.

I want to start with a very basic question for you and for Tom. In the light of what I have said, in the light of the way this programme has evolved, what steps are going to be taken now to ensure the common frameworks programme will maintain its profile, its momentum and its significance as part of building a co-operative union, and what will be done to ensure that there is cohesive leadership of the programme going forwards?

Sue Gray: Thank you very much and I thank members of the committee as well. I should say that my role as Second Permanent Secretary covers two departments: the Cabinet Office and the Department for Levelling Up, Housing and Communities. That is important for this programme of work but also the work that I am leading in relation to the union elections and the constitution. Within the levelling up department, we have the Secretary of State, Michael Gove, with responsibility as Minister for Intergovernmental Relations. We have Neil O'Brien in the department with responsibility for common frameworks. There is a team that I have in that department.

In the Cabinet Office I have a team that is responsible for a couple of Cabinet committees and the secretariat for a couple of Cabinet committees—Union Strategy and Union Policy Implementation—and the secretariat for intergovernmental relations and for common frameworks. This enables us to use all of the resources at our disposal across both departments. As you know, the Cabinet Office role is also a very important role in brokering across departments and influencing. It is often seen as that impartial broker to resolve things, using that power.

As you know, I returned to this role in May last year, having spent three years working in the devolved Government in Northern Ireland, and it is great to see Baroness Ritchie on this committee. When I was in Northern Ireland, I lived just beside Downpatrick so I know the area well. But I learned an awful lot about working in a devolved Government, which you only get when you spend the time that I did. Therefore, the relationships for me with all the devolved Governments are hugely important. We bring all that experience and expertise to bear.

The common frameworks are hugely important. When I am in discussions with my colleagues across the UK Government and my counterparts in the devolved Governments, I am encouraged and reassured that we are talking about common frameworks, about the processes, the governance arrangements and what is coming up. The emphasis and interest on common frameworks today have grown, and that has a lot to do with the work that you and the committee have been doing to raise their profile.

I do think that we still have very important work to do and that will be ongoing. It is disappointing that the timetable has slipped, but please rest assured that we attach a high importance to the work of common frameworks going forward and we are determined to keep on top of this. I am happy to keep providing you with regular reports on how we are doing.

The Chair: Thank you very much, Sue. It is very encouraging to hear your personal commitment and to hear you say that you think that the profile is higher, because we have struggled very much to engage attention. I am going to leave it there, because my colleagues will want to follow up on much of what you have said and I do not want to hog the questioning, but I will just ask, Tom, if there is anything that you would like to add briefly to what Ms Gray said.

Tom Cartlidge: Thank you, Lady Andrews. In addition to what Sue has said—I might just pause there. There is a lot of feedback.

The Chair: Now we cannot hear you at all.

Tom Cartlidge: I am sorry. Building on what Sue said, there is a very experienced and able team that will continue to work on frameworks. They will sit alongside the—

The Chair: Your sound has gone again. Shall we leave you for the moment and come back to this?

Tom Cartlidge: I apologise. I am now appearing on Sue's screen, which might be a simpler way of doing the technology. It is an experienced team that will be working with the team that looks after intergovernmental relations in the Cabinet Office. That will be a useful way to ensure that the frameworks activity is linked to wider and higher-level engagement with the devolved Governments. Essentially, the team will be in the right place. They will continue in the Cabinet Office to have the ability to interact effectively with departments. They have the expertise and experience to do an effective job. Given that the delivery phase is nearing completion, it is the right time for that team to be truncated somewhat while retaining a lot of the most important expertise.

The Chair: Were they not engaged as a team with other teams in the Cabinet Office previously? You have your three stretches now, as it were. Is that new?

Tom Cartlidge: Frameworks was managed as a division. You will remember that Bruno Williams was the deputy director running the

programme, so the frameworks has always had a good relationship with the intergovernmental relations team. Now there are fewer people, the reorganisation means that the team covering frameworks will report into the same deputy director as the intergovernmental relations team.

The Chair: That makes sense. I am going to leave it there and hand over to Edward Garnier.

Q283 **Lord Garnier:** Hello, thanks very much, both of you, for coming. It is very nice to see Sue again and Tom for the first time. I am going to rattle off a few questions, if I may. Forgive me if you think I am a bit of a cynic. I am concerned that—although there are some very hard-working officials in the Cabinet Office and in the levelling up department—your jobs are split across two departments. While I am sure that you both work very hard, I am slightly concerned about the lack of political involvement and direction.

I appreciate that that is not your responsibility but, looking at it from the outside, I get the impression that Ministers are not really engaged in this process. It is a boring thing; it is a process thing. It is not something that fills up their political juices, so anything that they can do to get out of having to deal with the nitty-gritty and the hideous detail of this common frameworks is something that they try to achieve. I say that because, for example with Defra, we have had incredible sloth from that department in getting common frameworks coming through to us, which has been frustrating. That is why, as Lady Andrews said, we have not been able to finish our job—because of the pretty poor performance from that particular department.

How can you split your time between the Cabinet Office and the levelling up department to ensure that the administration of this programme is driven forward at an official level? Perhaps it is not your job but how can you enthuse reluctant Ministers to be given the occasion prod to say, “The union depends upon your work”? How can you make sure that the future of the common frameworks programme continues with determination even after this committee has been wound up?

You say that interest has grown in this work. It has among those who are interested, but what worries me is that there are an awful lot of people allegedly involved in this programme who are just going through the motions. I would be encouraged if either or both of you could persuade me that my cynicism is utterly unwarranted and that everything is going swimmingly.

Sue Gray: Thank you, and it is good to see you too. First, under my leadership, this group is very focused on this programme. I regularly report on progress to the Secretary of State for Levelling Up, on common frameworks and how we are getting on. Also, Neil O’Brien, the Minister, is actively interested, so I do think that there is an interest.

Departments are taking on an activity at the centre to monitor progress and check how everybody is doing. Perhaps there needs to be more input from me into that to keep track of all of that. It is important for

maintenance of the union that this work is progressed, and progressed at pace. It is an important piece of work. I have not heard from departments that they are not committed to this; that is not the feedback that I have received. Certainly, I will take that away from this session and redouble my efforts to make sure that all departments are focused on delivery.

Transparency is hugely important. We have been publishing a quarterly report on how we are getting on with intergovernmental relations. There is more that we can do in that quarterly reporting around common frameworks, and we are about to publish an annual report. Tom and I will take an action away to look at that reporting to see what more we can do to highlight how departments are delivering on common frameworks. Tom, is there anything you want to add to that? I will pass my screen around so that we avoid the echo.

Tom Cartlidge: Thank you, Sue. It is not just necessary to get ministerial juices flowing for the frameworks to be successful, I suggest. That has been important and Sue has been helpful to us in making the progress that we have in the delivery phase of the framework. Personally, I think that the most important thing will be that the frameworks continue to demonstrate their utility in the long run. In my view, that utility will mostly be felt in official-level engagement. One of the things that the residual team will be doing is ensuring that they are monitoring how the frameworks are functioning live and watching how engagement happens between the UK Government and devolved Governments to ensure that it is functioning as necessary.

I know the committee is interested in the level of onerousness in the frameworks. Given that they have been designed by the policy teams to be as useful as possible, there is a good chance that the frameworks will be embedded at that level and become a fundamental part of how the Governments engage together. Of course, the Cabinet Office does have a role as well in making sure that they are noticed at all the right levels. I am sure that Sue will insist on that.

Lord Garnier: I think I have made my point and I will not progress it further, because there are many others who would like to speak to you, but I do hope that things are given a prod.

Sue Gray: Yes, we will make sure that we prod. Rest assured.

The Chair: I think that we have the two prodders-in-chief in front of us. From what I hear, there is no shortage of prodability here. Can I turn to Lord Bruce, please?

Q284 **Lord Bruce of Bennachie:** Thank you very much. It is good to see you both this morning. Continuing that theme, you say that you are embedded in both the Cabinet Office and the levelling up ministry, and that is good to know. However, Chloe Smith told us that she felt that, once the common frameworks had been established, it was up to the individual departments to follow them through, even though, as Lord

Garnier says, the engagement of those departments is patchy and, in some cases, not as impressive as we think it should be. In this committee we have realised that common frameworks could be crucial to the future working of the union and the devolution settlement. For that to happen, there has to be a consistency of approach and there has to be an engagement that gives equality to the players. The role of the Cabinet Office in securing that seems to be particularly important. Is it going to be strong enough?

We have seen with the Internal Market Act and now the Subsidy Control Bill Government Ministers—particularly BEIS Ministers—saying, “Sorry, these are reserved powers. The fact that you are not giving us consent is your problem, not ours, and we are just going to carry on”. In summary, that is what they have actually said; they may have said it slightly less aggressively but that is what it boils down to.

How do we ensure that, going forward, the common frameworks are consistently applied, continue to develop and that there is room for new ones? In that context, do we not need a much stronger team in the Cabinet Office to ensure that the overall co-ordination across departments achieves that? How can that be done with this split role and maybe the rather smaller team within the Cabinet Office?

Sue Gray: First, I would say that my role is in both departments and I have teams in both departments. The role of the common frameworks team, which is based in the Cabinet Office, is to use information that both teams gain from their work with departments to help them understand where departments are.

We already monitor—but this is where our activity is going to increase over the coming months—across government how all departments are doing in implementing the frameworks to ensure that there is going to be a consistency of practice across the frameworks and that departments are getting on with the work and at pace. We will be tracking progress on a number of fronts, and there is something about looking at the public reporting that we are doing around transparency and intergovernmental relationships and the meetings Ministers are having—not just Ministers but officials. There is a piece of work that we can do to attach on to that. If it shows that the team needs to be bigger, I will be able to move resources around to supplement that. But, at the moment, our best judgment is that this is the right size of team going forward. The team was larger when we were in the earlier stages, but implementation is going to be critical.

I want to assure the committee that we are committed to this. We will use the resources that we have available to us in the Cabinet Office with that power of the Cabinet Office behind us to get things actioned across Whitehall departments. We will also use the levelling up resources where needed. I am going to ask Tom if there is anything that he wishes to add, but we are reporting quarterly on how we are getting on with this and transparency is a great way of holding people to account.

Tom Cartlidge: I can add that whether the UK Government are seen to be doing the right thing on frameworks is scrutinised not just by this committee but a number of interested committees in the UK Parliament as well as the devolved legislatures. Having worked with the devolved Governments for two years on this programme now, I am very clear that, where they are not content with the way the UK Government are using the frameworks, they are not backward in coming forward on that at official or ministerial level.

The essential point is that the frameworks are not just scrutinised in one place. There are lots of parties who can make clear that they are not happy with the way that they are being used, if that is the case. Each framework contains a dispute resolution mechanism that would allow for situations where the UK Government or one of the devolved Governments are not content to be resolved, potentially at a very high ministerial level linking into the IGR infrastructure.

Lord Bruce of Bennachie: I have one short supplementary. If there was deemed to be a need for new common frameworks because we have the agreement of what is going on, how would that decision be taken? Obviously departments might want to initiate it, but could the Cabinet Office call for that?

Tom Cartlidge: Yes. The position with 32 active frameworks is pretty stable, but in the fullness of time, we recognise that that may not be the case. One of the functions of the residual team would be to monitor whether departments have conducted sufficient analysis to determine whether a framework is required. If we were to activate a framework area, it would require agreement with the devolved Governments as well and we would want to ensure that that process was co-ordinated. With the residual team being a bit smaller, it will go from being a full active independent analysis to validating the analyses of departments on the no-framework-required areas, but that work will not stop.

In terms of how we will conduct transparency with what is going on with no-framework-required areas, it is unlikely that the same number of publications will continue, but there will be opportunities for departments to report to committees and other partners to the frameworks—the devolved Governments in the UK Government’s case—to set out what they are doing, so there will be a degree of transparency on that still.

The Chair: Thank you for those full and frank responses. We will come back to the issues around the link between design and delivery a bit further on, but for the moment have some more broad questions, starting with Lord Foulkes.

Q285 **Lord Foulkes of Cumnock:** To be honest, I am not really convinced by your arguments. Sue, you have worked in Northern Ireland and you understand devolution, but our experience has been that Whitehall departments do not really understand devolution, not just in the context of the common frameworks but in the wider context. I have experienced that very much myself. Our colleague Lord Dunlop has produced a review

and made some specific recommendations. Could you tell us specifically what is being done to ensure that these recommendations are taken account of in terms of policy development and decision-making in Whitehall departments?

Sue Gray: Thank you, and it is good to see you. As I said at the outset, I personally know how much I learned from working in a devolved Government. The relationships that I formed with the Scottish and Welsh Governments, while working in the Northern Ireland Executive, were hugely important in improving my understanding of working in a devolved Government and I have brought that experience back to the centre.

We have a very extensive programme of work under way to improve the capacity and capability of UK government departments, in thinking about Scotland, Wales and Northern Ireland when developing policies and actually implementing policies as well. Where matters are devolved, it is also important that we are talking to the devolved Governments about what we are thinking, and sharing our thinking and learning. I would also encourage my colleagues in the devolved Governments to do the same with us, so there is an extensive programme of work under way.

I am very keen—because I got an awful lot out of being on secondment—on improving interchange and secondment opportunities between all Governments, because that will help. We have been looking at this around legislation in particular. What can we do on Bill teams to have colleagues from Scotland, Wales and Northern Ireland perhaps either loaned or seconded into a Bill team? They are real opportunities that will make a huge difference. We will get a better understanding of issues in those areas as well, as we can share things at an early stage. There is a very big piece of work there.

We are also moving jobs out of Whitehall to all parts of the UK, including Scotland, Wales and Northern Ireland, and that is going to be significant in how we think about issues. That is also very important. We have the intergovernmental relations structures now. Having completed the review, which took quite a long time, the focus of that is about how we all work together. There are dispute resolution processes there, but it is about how we work together.

Michael Gove chaired the first meeting of the Interministerial Standing Committee last week, which all the First Ministers and other Ministers attended. That was a very constructive discussion. Also, Andrew Dunlop's review and my own appointment to this role is significant to the importance that the Government attach to implementing his recommendations. Therefore, I think most of them are being implemented and are in train.

There is still much more work to do in challenging government departments, encouraging them to think wider than perhaps in the past. For me, having been here now nearly a year, I really see a difference in how departments are taking this forward. I look within the levelling up

department and there is a very big difference in how we are approaching things.

- Q286 **Lord Foulkes of Cumnock:** Do you squirm, like me, when you hear Jacob Rees-Mogg or even the Prime Minister make some of the comments they do about devolution? It seems to indicate that they do not understand how it works. We had some evidence from Angus Robertson and clearly the SNP is ready to take advantage of this politically if Whitehall departments, and those at the highest level, do not understand the importance and responsibilities that devolved Governments have. What can you do about that? I know you cannot influence the Prime Minister very much, but others, maybe.

Sue Gray: We have an important programme of work under way. For example, I meet my devolved Government counterparts weekly and we discuss the most important issues that we are all dealing with. I bring relevant officials from whichever department will be relevant to discussions in those meetings. During Covid, when we were having vaccine rollouts and various restrictions, where all four nations were taking a slightly different approach, the important thing was to discuss these issues and to be aware of the different courses that people are thinking about and perhaps going down.

The fact that Michael Gove is having fortnightly meetings with the First Ministers—we have a Cabinet Office Minister now meeting the devolved Governments—means that there is a change in tempo and in content. We will see how that continues to bear fruit, but that is where we are.

Lord Foulkes of Cumnock: I agree with you about Michael Gove. I hope he can twist the arms, or whatever the best metaphor is, of some of his colleagues in the Cabinet. We appreciate the work that you are doing, Sue—all power to your arm. You have a lot to do, though.

Sue Gray: Thank you.

- Q287 **Lord Hope of Craighead:** Good morning to you both. I want to probe more deeply into how things are going in relation to the interaction between the Internal Market Act and the common frameworks, particularly with regard to divergence. Perhaps a word or two by way of background: when our committee began life, my impression was that the only person in the entire edifice of Whitehall who understood what common frameworks were all about was your predecessor, Tom—Bruno. He did understand it. At meetings he and I were talking more or less on the same level but everybody else had no idea what we were talking about. One of the things that happened repeatedly in the House of Lords when I was trying to probe amendments with Lord True was his assertion that the two were compatible with each other, which in fact was untrue when you regard the opportunity that the frameworks provide for divergence.

What has happened since then has encouraged me to think that there has been a considerable improvement. Particularly what you have been saying, Sue, reinforced that. However, there is still concern about the

process that has to be used to take advantage of the amendments that were eventually made to the Act to allow exclusions in regard to goods and services where there was an agreed divergence.

I am sure you know that in December last year agreement was reached about the process, but we have had conflicting advice, particularly from the Minister, from George Eustice, as to what is going on about getting that process under way. First, he said that there was no need for the process to be written into the frameworks; they could sit side by side and there was no need to refer to it. Then we were told that steps were being taken to see if the text of the frameworks could be altered so that reference could be made to the process, so that people knew what to do.

What is the present state of play in discussions with the devolved Administrations about the use of the process, and why is it that we are still uncertain as to what steps are being taken to get the process to work, understanding that unless you use the process that was agreed in December, the opportunity for exclusions from the Act will not be available? Sue, could you guide us to where we are on these points?

Sue Gray: I will hand over to Tom in a second, but I understand that the Scottish and Welsh Governments have written to the committee in the past day or two to explain their rationales for not including reference to the UKIM exclusions process in the framework document. There has been criticism about the exclusions process being too slow for an exclusion to be granted and being overly narrow.

We take quite a bit of learning from that process. If we look back, it did seem to take a fair bit of time, but that was probably due to it being very new to everybody. I hope that we have learned from that and that next time around it will be much quicker and smoother. I will ask Tom if he wants to talk about the specifics.

Q288 Lord Hope of Craighead: As an introduction to Tom, could I ask if the process that was agreed in December is not working. Do we need to devise a new process? It is crucial that the process is understood and put into operation. To take a particular example, single-use plastics, I think I am right in saying that Wales was all right because its legislation about single-use plastics preceded the Internal Market Act and therefore it is already protected. But Scotland is working along the same lines and it can only get a protected system for single-use plastics if it gets an exclusion under the Act. This is a hard and fast question as to how that is going to be achieved, if the process that was agreed in December is not being operated.

Tom Cartlidge: We would all recognise the time it has taken to reach a decision on the exclusions process with regards to single-use plastics. This emerged as something of a test case. I think I am right in saying that the request preceded the date of the agreement on the exclusions process being published. That gives a sense of how early the request from the Scottish Government was, which is understandable because they have a limited timeline before their new regulations come into effect

and the process requires that an SI is laid in both Houses of Parliament—so it takes time.

To your question about whether the process is fit for purpose, the example of single-use plastics reveals that it took longer than we would have hoped, in this case. Both Scottish and Welsh government Ministers have written to Baroness Andrews to make that point. The issue did rest with the UK Government. It took some time for colleagues in the UK Government to ensure that the right analysis had been conducted and it took some time to ensure that all the right people and departments had had an opportunity to review that.

There were a number of lessons learned as that process worked its way through. I do not think that we would need to learn those lessons a second time, either in Defra or anywhere else in government. Both the frameworks team in the Cabinet Office and BEIS were very closely involved in the process of assessing the single-use plastics position. Where we are now reflects how we have been able to use the process effectively to reach a decision and that now the appropriate consultation is happening with devolved Governments with a view to supporting the Scottish Government's regulations.

I do not think that the time for a wholesale review of the process itself is now. Obviously, if we discovered that aspects of the process cannot allow for a timely decision to be made, we would be open to looking at how we can improve either the process as published on 10 December or, more likely, find ways, particularly internally in the UK Government, to make things happen more quickly. We are going through a lessons-learned exercise at the moment with BEIS, Defra and other departments to ensure that we are able to reach decisions more quickly in future.

Q289 Lord Hope of Craighead: I have two follow-up questions for you, Tom. First, which framework, if any, is the exception for single-use plastics being developed? Is it being done through a framework or is it a self-standing thing? Secondly, if it is through a framework, does that framework—as the policy says it should—confirm that the divergence that is being sought has been agreed through the common frameworks forum? There is a very precise lot of stuff set out in the process and, as a lawyer, I want to see whether the wording set out there is being followed. If you could answer those two questions, I would be very grateful.

Tom Cartlidge: The answer to your first question is straightforward. The resources and waste framework, which is yet to be published, reflects how frameworks that are yet to be published are already operational. As a lawyer wanting to see the process set out in black and white, I accept that the current situation is not satisfactory, but it does relate to an existing framework that will be available for consumption.

In terms of how the agreement is recorded, as you will be aware, the process sets out that the decision needs to be made in writing. That is most likely in almost every case to be an exchange of letters between Ministers, and we can certainly look at how we can ensure that that is as

transparent as possible. Obviously, the exclusion itself will be set out in an SI that both Houses of Parliament will be able to scrutinise. That is how we envisage that people wanting to pass what is decided through a fine tooth-comb will be able to do so.

Lord Hope of Craighead: To leave it there, I would not be concerned about the wording of the SI so much as getting to the point of getting an SI in the first place. Unless you go through the process, you do not get to that stage at all, but you have reassured me that there is something going on that is giving life to the thing that was agreed in the exception to the Act. I am grateful to you and Sue for what you have told us so far. Thank you both very much.

The Chair: Thank you, Lord Hope. It is significant that this is a framework that we have not seen and a process that has not ever been explained to us yet, in a framework that may not even contain the actual text of the statement of exclusion. So you will understand that our frustration is very genuine on this point. With the exchanges that we have had with Scotland and Wales about whether the text should include an explicit statement of the process, this is something that we continue to take very seriously as part of the guarantee of delivering what we expect from the frameworks. We might be saying something about that in our report but what you have just told us, Tom, is extremely helpful. Thank you to Sue and you, and to Lord Hope for the question. Can I move on to Lord Thomas, please?

Q290 **Lord Thomas of Cwmgiedd:** Thank you very much, Kay. Can I say how encouraged I am by all I have heard? I realise that changing culture is quite a task and requires steely determination, but that is not lacking.

It seems to me that it is very important, where you are dealing with new legislation that involves devolved matters—such as agriculture, economic development and the environment—that, where there is Westminster legislation that would impact on it, there is a great deal of discussion and engagement to see if we can get a consensus, particularly from Governments that are prepared to engage. I appreciate that that is not always the case.

Taking the Subsidy Control Bill—or as it soon will be, an Act, because it is at its final stages—it seems to me that we have to get new legislation that does affect these devolved powers to work properly in a consensus way. Bearing in mind that, in common with so much modern legislation, much of the important part is contained in regulations, guidance and the like, are we going to see a much better approach to obtaining consultation and consensus on the regulations on policy for subsidies? Will we see more of a common approach to levelling up on policy, rather than seeing the rich get richer and the poor poorer, and that sensitivities are properly taken into account and thought through before we get far into legislation, such as in the ability to overrule primary legislation of devolved legislatures?

I appreciate that there is a huge amount that you have achieved but

there is a little bit more that needs doing. I have taken what needs to go forward on the Subsidy Control Bill as an illustration of the change that is needed.

Sue Gray: We have been discussing consent and early consultation with the devolved Governments and it was an issue that we discussed at the Interministerial Standing Committee chaired by Michael Gove last week. I have a small team who look after that legislation and that relationship across government, but also with the devolved Governments.

We are keen and have been talking to colleagues in the devolved Governments about very early engagement, so we are talking about what might be in draft Bills. We are talking early on about how we can all understand better what is being proposed and how we can work with all of that. We have an action to work with colleagues in the devolved Governments about what that process might look like for the coming Session. I firmly believe that the earlier we have engagement the better we will be with our legislation and the regulations. We are very committed to that and that is going to be an important part of our work. It currently is and, certainly for the next Session of Bills, will be a very important part of our work.

Lord Thomas of Cwmgiedd: It does seem to me that little matters keep a union together, addressing sensitivities. The Westminster process of primary legislation where the Bill is drafted is not the best way of doing things, so I am very encouraged with what you have to say and we all wish you well. It does require a huge amount of work, I regret to say.

Sue Gray: We are all very committed to this. As I said, I bring my experience from working in the Northern Ireland Executive about how it felt sometimes. I need to make sure that my colleagues understand that. That early consultation and discussion is going to be hugely important to getting this right for the future. I am very committed to that. As I said, I know how it felt sometimes—not always.

Lord Thomas of Cwmgiedd: Thank you very much indeed for that reassurance.

Q291 **Baroness Ritchie of Downpatrick:** Thank you, Sue and Tom. You are very welcome. As you would expect, Sue, I am going to ask a question about Northern Ireland. You will have gained experience in the Department of Finance at a time in a post-Brexit situation when common frameworks were devolved to the various Administrations, particularly in the case of Northern Ireland where there was not an Executive between January 2017 and January 2020. I want to gain some understanding of what happened during that period.

Are the UK Government or Northern Ireland Executive responsible for engaging with the Irish Government on common frameworks with a cross-border element on the island of Ireland? The classic case is the one to do with animal health, where the island of Ireland is treated as an epidemiological unit. There are other ones in relation to organ tissues and

cells, and blood safety and quality provision.

There is a difference in interpretation. The Department of Health seems to promote that cross-border working. DAERA does not, so there could be political implications there, so there is that aspect. Are you aware that officials in the Northern Ireland Executive consider it to be the UK Government's responsibility to engage with the Irish Government? Because of the requirements of the Good Friday agreement and the Northern Ireland Act 1998, I would have thought that those requirements fell under the institution provisions of the Good Friday agreement and the North/South Ministerial Council.

Sue Gray: Thank you and, as I said, it is very good to see you. I joined the Northern Ireland Department of Finance in a period when we did not have Ministers. I joined in May 2018 and, half way through my term, the Executive reformed and I had a Minister then in charge of the department.

What I would say about common frameworks and how they work is that they are agreements between parts of the UK about how we are working in areas that fall within devolved competence. A third party would not be party to a common framework. In my view, and how I think that I would have operated it when I was in Northern Ireland, discussions with the Irish Government on these matters would fall to the Northern Ireland Civil Service to undertake. You are right also to talk about the North/South Ministerial Council and those relationships but, in my view and how I would have wished to operate it when I was there, it would be for the Northern Ireland Civil Service to take those forward.

There may be discussions. Ministers are talking to their Irish Government counterparts—Michael Gove was doing that quite recently—and some issues may get raised, but it primarily is the responsibility of the Northern Ireland Civil Service. I am going to ask Tom if there is anything that he wishes to add but, for me, the common frameworks are about frameworks for agreement within all parts of the UK.

Tom Cartlidge: I think the question refers to a letter from the Northern Ireland Executive that the committee received in February. Our reading of that letter is essentially that it creates a distinction between the agreement of frameworks and engagement on specific policy areas between the NICS and the Government in the Republic. Our position is that frameworks are intra-UK governance agreements and would never include the Republic as a party to or a significant element of those frameworks.

The committee referenced Edward Argar's letter, regarding the public health framework, which was sent in January. That set out some engagement with EU member states as part of the terms of reference of one of the official-level bodies that does engagement between the devolved Governments on public health. It may well be that there are bodies referenced in frameworks that, as part of their activity, engage with international organisations that might include the Republic, but in

almost every case a framework is not designed to provide specific information on how to engage the Republic, which we expect should appear elsewhere, as you suggest.

It is worth making the point that the Northern Ireland Executive have approved the frameworks that are published at the moment. We have confidence that they are content that they are not impinging their ability to engage effectively, in any way.

Q292 Baroness Ritchie of Downpatrick: If I may be allowed by our Chair, I will pursue another question with Sue around the issue of the protocol. Obviously there are areas where the protocol intersects with common frameworks, and there will be areas of divergence as we pursue areas where EU legislation is devolved to Northern Ireland. What happens then when there is an intersection with common frameworks?

Sue Gray: As part of the programme of common frameworks development, the Northern Ireland protocol has been considered throughout. Officials are encouraged to consider how the framework interacts with the protocol so that we are clear what the implications are. The team that I have in the Cabinet Office is able to work with departments and share understanding and good practice so that we bring that to the framework. Tom, this is quite a complex area; do you wish to add to that?

Tom Carlidge: As a general point on the protocol and how it interacts with frameworks, the frameworks operate separately to the protocol. The protocol, as a matter of fact, will lead to divergence between GB and NI and potentially divergence that is unique to NI. In all cases, the frameworks have been designed and the language relating to the protocol goes to the point that the frameworks are tools through which to discuss that divergence and policy change and ensure that it is dealt with as coherently as possible. In that respect, they support the operation of the protocol in keeping it orderly, although they operate separately, in that they are governance mechanisms. Whether or not the protocol existed, they would still allow for effective engagement between the Governments.

Q293 Baroness Redfern: Good morning to you, Sue and Tom, and thank you for attending our meeting this morning. Sue, would you say that it is fair to conclude that the frameworks that we now see are slightly different than what was initially imagined at the onset, in that the common frameworks would be mainly process driven as opposed to setting out policy detail and development? Do you think that the real test will come once they have been in place for some time?

Sue Gray: That is an important question about how they have developed over the past few years. There has also been some uncertainty from stakeholders and others, which goes to the heart of what common frameworks do. It is very much my view that common frameworks are not about the policy. They are about the process and they are about the

governance arrangements that we agree. All four Governments agree how they are going to operate.

As I may have said earlier, I am encouraged that in a lot of my discussions—whether it is with colleagues in UK government departments or colleagues in the devolved Governments—we are talking about common frameworks and there is a sort of agreement about how they are going to work and how they work jointly with the devolved Governments. For me, they are about process rather than policy and I feel that that is an embedded view now. It is for us now to make sure that they are working in the way that they are intended.

I am taking away an action from this meeting to make sure that our quarterly transparency reporting—which has focused until now on meetings that Ministers and officials have been having with all four Governments, talking about some of the issues—reports on progress with common frameworks, so that we have continued transparency about what we are doing and how we are getting on with that.

Baroness Redfern: They should cover improving intergovernmental relations even further. That is really important as well, Sue.

Sue Gray: Yes, it very much is.

The Chair: You have raised the issue of transparency in different ways. We are going to dig a bit into that at the moment, Sue. Can I ask Lady Randerson to take over?

Q294 **Baroness Randerson:** Thank you, Chair, and thank you both very much for your very helpful evidence. My question is about the complexity of the process. You have emphasised that this is about process, but we have found the process extremely complex in some cases, with a complete plethora of working groups. In the evidence that comes to us, it is very difficult to see whether these are working groups of officials, of experts working in the field, of users of the end product or so on. The whole process seems quite dense. By the way, the winner is the plant health framework that refers to 19 working groups.

My experience of working with the Civil Service is that the more working groups you have, the longer it all takes. It simply cannot be efficient to have such a complex set-up. You have just managed transparency, and this has a really important impact on transparency, which then has practical implications down the road.

I have two questions to ask you. First, do you agree that there is a danger that, in some cases, common frameworks have developed in a way that is overly bureaucratic and complex and that might be self-defeating? Secondly, what proportion of working groups across all common frameworks do you estimate predated common frameworks and how many of them have been invented for the purpose, therefore putting extra pressure on those who have to sit on the working groups?

Sue Gray: Those are really good points. We need process, obviously, to make sure that things are being done properly and that we are definitely

doing the proper engagement with the devolved Governments but also with stakeholders. However, the processes for frameworks must be proportionate to make sure that we are achieving what we set out to do.

It is departments that decide the governance structures that work best for them, in consultation with the devolved Governments. They are the policy experts and will know what they need to do, but there is a role for us at the centre to make sure that there is some consistency applied in how we are working. The frameworks and the processes should not be overly bureaucratic or painful. Over the next few months, we need to get an understanding of what all departments are doing, making sure that the processes that they have are proportionate. There are in-built review processes within the frameworks, which means that there is a real opportunity for us to share good practice across departments and, if we think something is overly bureaucratic, to have discussions with that department to streamline the process.

I will ask Tom if there is anything he wishes to add, but we are very committed to minimum bureaucracy and to good processes. I suspect there is a lot we can all learn. You are right that some of these processes may have predated the frameworks themselves. It is a good time to take stock of them.

Tom Cartlidge: It is absolutely a valid concern that the frameworks are too difficult to use. They reflect the degree of complexity, in most cases, that existed prior to the framework coming into existence. The frameworks are there primarily to ensure that effective engagement between the UK Government and devolved Governments occurs in returning areas from the EU. There may be some additional bodies, or additional duties of existing bodies, that they create.

However, departments have written these themselves. Those who are going to live the experience of using the framework are the ones who have produced them. In that sense, I hope they will be self-policing in terms of how complex they are. They have not been designed as a root-and-branch reform of the efficiency of government; that has not been their focus. That is probably a separate process, and a perfectly valid one. Because the frameworks live and breathe and will be capable of change, if efficiencies are found and agreed on, they will be able to take those on.

On your question on the proportion of new versus old working groups, there is also a significant category of working groups—I think this may well be the majority—that have evolved over the years and cannot be called either old or new. Certainly, I do not think we could put a figure on which are new and which are old. We can say that a majority existed before the frameworks and that the frameworks, therefore, had the effect of codifying what was there before.

Q295 **Baroness Randerson:** Do I draw correctly from what Sue was saying that there is effectively going to be a quality control approach in future, in ensuring that the working groups are clarified for people, so that we

know exactly who they are, who they represent and what their role is, in order to improve the transparency of the process and its efficiency?

Tom Cartlidge: I think it would be reasonable to look to the higher-level working groups, where you have senior officials and Ministers interacting. A lot of what is in the frameworks goes to the working-level officials and that will probably always be harder to give lots of detail about, other than to say that it is happening. We have asked departments to look at how they manage transparency in their frameworks according to the principles that they apply themselves. As the Cabinet Office, we will ensure that that is being done to a reasonable standard, but the way that departments work internally is a matter for them.

Sue Gray: To add to what Tom has said, we can and will be sharing good practice. Where we see departments doing things in a particular way, we can share that good practice with other departments. It is about how we all learn.

The Chair: We all picked up on some of those key words there, Sue: “proportionate”, “taking stock” and “good practice”—the sorts of things that you, as a consummate official, would do yourself. We are getting towards the end now, which may be a relief to you or a rather sad moment. I am going to ask Lord Murphy to come in now, and then Baroness Mobarik.

Q296 **Lord Murphy of Torfaen:** Very good morning to you, Sue and Tom. It is very interesting to hear what you have to say. About 24 years ago, I ceased to be the Minister for the department, Sue, which you eventually headed up, the Department of Finance in Northern Ireland. An awful lot has happened since then, well over 20 years of settling in devolution. It is understood by the people of Scotland, Wales and Northern Ireland, but I am not absolutely convinced that it has been understood or appreciated by Whitehall or Westminster. It is often a case of glaze-over time when I ask people about their views on Welsh, Northern Irish or even Scottish issues. Lord Foulkes touched on that earlier.

I think you indicated that there has now been a change. It is great that you have been able to spend some time in Northern Ireland—in a devolved Administration, at a senior level—and come back and understand it. I hope that is going to be the case in the future because, as devolution goes on and on, it means that more and more people in Whitehall need to understand it.

I want to come on to one particular issue—it is a simple one, really—which is intergovernmental relations. I believe they are improving, with Michael Gove and with what Lord Dunlop has done. The Welsh Government is now looking at that as well. However, one of the big improvements that must take place is that those relations between the devolved Administrations and the United Kingdom Government must be transparent. Perhaps you could explain how that transparency could be arrived at.

Sue Gray: As I mentioned earlier, I got so much from my time in Northern Ireland working in a devolved Government, but also from the relationships that I formed with colleagues and Ministers in the Welsh and the Scottish Governments, particularly when there were no Ministers in Northern Ireland. As the Finance Permanent Secretary, I would often be at the quadrilaterals with Ministers from the devolved Governments and the Chief Secretary. I learned so much, which I have brought back with me. Those relationships are really important and there is an awful lot of discussion that does go on with all four Governments at ministerial and official level. I think that the transparency reporting that we have been undertaking quarterly shows how that engagement is being undertaken and what that is bringing to the way that we work.

In the last year I think there were over 450 meetings between UK Government Ministers and their counterparts in the devolved Governments. That is all supported by a far larger number of officials' meetings to prepare for those meetings, and weekly meetings, as I do myself, where I am updating my colleagues on key issues and getting their feedback. I am in regular discussion with them individually and collectively. Reporting on all this will show not just the number of meetings that are taking place but the issues that are being discussed, and give a much greater knowledge and understanding of not just the UK Government in Whitehall, but the devolved Governments and how the UK Government work. It is very much a two-way flow and that engagement is hugely important going forward.

I am now based back in Whitehall, but it is really important that I am out and about, which I am. I am in Scotland, Wales and Northern Ireland regularly, meeting the Governments, meeting my colleagues, but also meeting stakeholders. My colleagues in Whitehall are doing a lot of that as well.

It is very much a work in progress. How we are doing this is improving. There is still further to go, but there is a real commitment that I feel, not just with the people I am talking to, but from when I seek feedback from the devolved Governments about how they feel it is working. There is more to do. I am not saying that we are anywhere near the end of this; there is more to do, but it is a work in progress.

Q297 **Lord Murphy of Torfaen:** That is very encouraging indeed. Anything that can ensure that eyes do not glaze over anymore in Whitehall and Westminster, when we talk about devolved issues, is great. What you have said to us is extremely encouraging.

I have a follow-up question as well, back to the Welsh Government this time. The Welsh Government are now designing a mechanism for regular reporting—this is the transparency issue—on common frameworks for all four Governments in the United Kingdom to use. Are you aware of that and whether any progress has been made?

Sue Gray: Yes, I am very much aware of it. It is absolutely great that this is not just UK Government always doing things or taking the lead.

We have so much to learn from some of the work that is going on in Scotland, Wales and Northern Ireland, and the Welsh Government have stepped forward and are undertaking this work. The more that we can have consensus on how we are all going to work together, the better it will be. Although getting it right will take a bit of time, the work is progressing and is progressing well. We are all involved in it.

Lord Murphy of Torfaen: Many thanks, Sue. It is very encouraging to hear that things are changing and that they are changing for the better.

The Chair: Is it not refreshing, Lord Murphy, to hear an official say that there are things to learn from the devolved Administrations, and to be aware of what they are doing in the Senedd as well? Thank you, Sue, for that. The last official question is from Lady Mobarik.

Q298 **Baroness Mobarik:** Hello, Sue and Tom. It is nice to see you and thank you. My question is about the proposed Brexit freedoms Bill, which would make it easier to amend or remove retained EU law, in effect by bypassing the need for primary legislation. Currently, we are adhering, on the whole, to the same EU-established laws and therefore divergence is minimal but, if the Brexit freedoms Bill is passed and gives the UK Government the chance to change retained law quickly, we could have a significant amount of divergence. As has been said, Northern Ireland is largely required to adhere to EU legislation, and Wales and Scotland would be required to make changes to legislation in their Parliaments. What do you think would be the impact? Could you update us on the content of the Brexit freedoms Bill and provide a bit more clarity?

Sue Gray: First, the two separate but linked reviews into the status and substance of EU retained law that began in 2021 will inform the content of the Brexit freedoms Bill. As committee members will know, the objective is to make it easier to amend or remove retained EU law, which is no longer right for the whole of the UK, and to review its special status in the legal framework. The changes proposed in the Brexit freedoms Bill will give devolved Governments the ability to amend or repeal retained EU legislation more easily to suit their individual circumstances. That work is under way. It obviously sits with the Cabinet Office Brexit Opportunities Unit under Minister Rees-Mogg, who is taking this work forward. It is a work in progress. It is not being led by me or the team, but we are aware of it and involved in those discussions as needed. Tom, is there anything you want to add to that? It is really not within our area of responsibility.

Tom Cartlidge: The only thing I would add on frameworks is that they are designed to be able to deal with an increased frequency of divergence, if that is what the effect of the Bill is. If the frameworks act to ensure that all the right engagement occurs and all the right conversations take place before changes are made, that should ensure that the process is broadly kept, despite it being easier to amend retained EU law.

Q299 **The Chair:** Thank you, Sue and Tom. We will not tease you by asking

whether you know if it is going to be in the Queen's Speech coming forward. We will wait and see.

I am going to just ask one very picky question, which is something that you could write to us about. From what you said about the many meetings that Ministers are having—quads, bilaterals or whatever—do you know whether Mr Gove has had any specific meetings on the common frameworks? I am very happy for you to write to us about that. It just occurred to me that you had not mentioned it.

The second question is of a very different order and it pushes the boundaries a bit. We have spent a lot of time talking about transparency managed through the opposite of bureaucracy—trying to make the design fit for purpose in its delivery. You have talked wonderfully and engagingly about work in progress and taking stock of that, and it has been terrific to hear that. Then there is the transparency in relation to the people who have to deal with the impact on the ground, whether they are farmers, transport operators or whatever. There is another form of transparency and accountability, and you have talked about reporting transparency as well, but the transparency we are concerned with is about parliamentary accountability. Forgive me for asking the question; I would understand if you did not have an answer because it is a complicated one.

We will cease to operate as soon as we produce our second report. We are sad about that and slightly alarmed about it, because we have kept the narrative and profile of common frameworks flowing. You have been kind enough to say it has been important to do that and we think so too, not least because we have created a means of the four Parliaments talking to each other, as we have had direct access to the responsible Ministers and committees. That has been invaluable. We are keen for Parliament to continue to be involved in some shape or form. Would you have views about how that might best be done?

Sue Gray: I do not have a view on how that might best be done, but I would say that the committee has played a great role in raising the profile of common frameworks and understanding about what they are there to do.

A few weeks ago, as I was thinking about this evidence session, I went to your committee website. There is so much really good information there about the work you have been doing, set out in such a way that, whoever or wherever you are, it is relatively straightforward to understand. This could be a very complex discussion area for people who are perhaps solely interested in particular things, but the information that you have produced in your reports has done an awful lot to raise the profile. The work that Parliament has been doing to help us in the work that we are doing is hugely important.

I do not have a view about how best that would be done in the future, but I am really happy to have a separate conversation to talk through some options about what might be possible. I would be very happy to do that. All credit goes to you and the committee for the way that you have raised the profile, but also for the way that you have worked with the

devolved legislatures in keeping the work in sight. That is really great. We will hopefully continue to keep that profile raised. As I say, I do think talking about it in our quarterly transparency report, which we have not really done until now, will be important. Obviously, that report is available for Parliament to pick up and look at. I certainly will give it some thought and am happy to have a conversation about what the options might be.

The Chair: We would find that irresistible, in your very busy days. I just want to say on behalf of the committee—and you will have seen this reflected in everything that everybody has said—that it has been an incredibly positive experience talking to you and Tom this morning. Your personal commitment is unconditional. I can see, we can all see and it is partly reflected in your own experience, just how very important this is, not just for the harmony but for the energy, the conviction and the proper effect of devolution in terms of the four countries. It is extremely important to maintain that.

From everything you have said about conversation and engagement, cultures are changing and people are getting to know each other at an official level, and hopefully at a ministerial level as well. You obviously see this very much as work in progress, as indeed we do. As we move into the delivery phase that will test the design. If those 19 committees on plant health are all at odds with each other, overlapping and contradicting or, at the very best, redundant, we need to know about it because that is how it will play out in practice and in policy. It is at that point that people on the ground will say, “There is something very badly wrong here. Why did they let it get into this state?” We need to be alert to that—parliamentarians and Ministers need to be alert to that—because we must be prepared to change.

One of the things came across to me is that you are prepared to change. You are prepared to think about resources, where the policy emphasis is and how else transparency can be delivered. That is tremendously important for us to hear because, ultimately, process determines the quality of politics and policy, and that is what people experience on the ground. As a good public servant, you and Tom are absolutely bound to be focused on that, and so are we.

It is about continuous learning and continuous improvement, and that is exactly where we are, which is why I hope we can find a way—it would be delightful to talk to you about it—that Parliament can remain accountable and do some of the amplification, explication and illumination of what is happening on the ground.

On the dot of 12.01 pm, we are going to let you go to whatever else your day might hold. Thank you again for making the time. I hope it has been as refreshing for you as it has been for us, in a way.

Sue Gray: It has been really great. I do just want to record my thanks to Tom and the excellent team that I have, who are delivering on this agenda that is so hugely important. I would like to have a separate discussion about how Parliament and others might support us in this work

going forward. Thank you very much; it has been really informative for me as well and I very much appreciate it.

The Chair: The whole committee would be very grateful and pleased to hear that. If I may, because this is our final session, I will just echo that we have been very impressed with and grateful to the Cabinet Office and all the officials we have worked with across Whitehall. We have given them a hard time, in many ways, but the Cabinet Office has been absolutely alongside us and we have seen the improvements that it has driven over the past 18 months. With those mutual congratulations, I have to declare rather reluctantly that this session is now formally closed.