

Public Administration and Constitutional Affairs Committee

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Tuesday 2 March 2021

Ordered by the House of Commons to be published on 2 March 2021.

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Members present: Mr William Wragg (Chair); Jackie Doyle-Price; Rachel Hopkins; Mr David Jones; John McDonnell; David Mundell; Tom Randall; Karin Smyth.

Questions 1 - 58

Witnesses

I: Julia Lopez MP, Parliamentary Secretary, Cabinet Office; and Bruno Williams, Deputy Director, UK Frameworks Division, Cabinet Office.

Examination of witnesses

Witnesses: Julia Lopez MP and Bruno Williams.

Q1 Chair: Good morning and welcome to a virtual meeting of the Public Administration and Constitutional Affairs Committee. The witnesses and my colleagues are in their homes and offices across the country. The Committee had hoped to consider the public procurement common framework today, but that is yet to be published. Therefore we are going to ask the Minister some general questions about the framework that we have yet to see and also more general questions about the common frameworks programme across government, which the Cabinet Office leads on.

If I could ask our two witnesses to introduce themselves for the record, please, starting with Julia Lopez MP.

Julia Lopez: Thank you, Chairman. My name is Julia Lopez. I have been a Cabinet Office Minister since last year. I am the Minister answerable in the Commons on procurement, which is led as a policy area by my colleague, Lord Agnew. I am answering today also on behalf of the Minister for constitutional affairs. She is leading on the issue of frameworks across government and the programme as a whole.



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Bruno Williams: Good morning. I am Bruno Williams. I am the Deputy Director for the common frameworks programme in the Cabinet Office.

Q2 **Chair:** Thank you very much. If I could begin, please, with a question to the Minister. The Committee was pleased to receive a quite delayed response to the letter we sent. When you wrote in December, you said that the public procurement framework would be published shortly and we were told that that meant January. Why have we not seen it yet, Minister?

Julia Lopez: I wish to assure you that we, as the UK Government, are very keen—as you are—to get this transparently published as soon as possible. When we shared the summary with you, we had hoped to get signoff from the JMC (EN) by the end of December.

There was provisional agreement between the UK Government, Welsh Administration and Scottish devolved Administration. Transparency is a priority of ours, but it is very important to understand that this is a joint collaborative project between the UK Government and the devolved Administrations. We are keen to do everything in lockstep so that we have the consent of all parties to the common framework. We have not had that yet.

Without that, we do not wish to proceed. It is very important that we are able to provide the same information to every citizen and business in the country at the same time, rather than to do things in a slightly different way, for instance, for English citizens to understand things before those in other areas. We would like to publish as soon as possible, but until we have that joint agreement, we do not wish to proceed.

Q3 **Chair:** In the interests of transparency, would it not be better to publish sooner rather than later, or is it conditional on the four nations all being in agreement?

Julia Lopez: Obviously it would be better to proceed sooner rather than later. That is very much what we would like to do, but we want to go forward with the agreement of all four parties to the common framework.

Q4 **Chair:** If Governments wanted to buy something right now—because of course you have responsibility for the procurement framework—whatever that might be, what rules would be followed?

Julia Lopez: The actual framework is not a policy document, it is a way of working. It is very important to make that distinction. The UK Government can move forward with their own procurement rules, as can the devolved Administrations, and that is not contingent on the framework being published. The framework is there.

This is about parts of procurement rules that were previously conducted at EU level and have now gone towards the devolved Administrations. It is about those areas where insofar as there is any divergence in what each Administration wishes to do, then there is a common framework governing that process, so that we understand where everybody is and there is a



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system for managing any divergence. It is not about policy content. It is very important to make that distinction.

Q5 **Chair:** So there is something in operation at the moment?

Julia Lopez: Yes. A framework is already in operation, it is just not published. I appreciate the Committee's frustration about that rather frustrating situation.

Q6 **Chair:** But some agreement must have been formed for that as yet unpublished framework. How was that agreement arrived at? Was it just at ministerial level or at official level?

Julia Lopez: It is at official level. Until we have ministerial sign-off from all of the different parties to the framework, then we are not going to be publishing it formally, but it is there as an interim framework for officials to defer to when there are any issues that need to be discussed. We have excellent working relationships at official level. Our officials meet regularly and have very productive discussions. It does not affect the functioning of the policy area, it is just that it is not where we want it to be for transparency reasons. That is a matter of regret.

As I say, we are very keen that we move forward as four parties all agreeing to do the same thing when it comes to transparency. We think we should be there later this year. We would hope to get that framework to you as soon as possible at that point so that you can provide the requisite level of parliamentary scrutiny that we all want to see. This is a balance between making sure that we have an operational framework, but also making sure that all parties are content when it comes to the publication of it.

Q7 **Chair:** You kindly provided us with a list of stakeholders who were engaged with developing the public procurement framework. How was that list of stakeholders arrived at?

Julia Lopez: My officials decided who would be the best people to engage with at UK Government level. I believe that all the devolved Administrations put forward their own suggestions, so we did not dictate to others who they should be putting forward. It includes organisations like the Confederation of British Industry, the Local Government Association, the Welsh Local Government Association and their counterparts in other devolved Administrations, the Scottish Council for Development and Industry and the Social Enterprise Network Scotland. Everybody was able to put forward the bodies that they felt needed to be aware.

Q8 **Chair:** So you did not specify to other Governments who should be consulted. How did that four-nations approach take place? For example, did those consultations take place collectively or separately?

Julia Lopez: I would have to defer to my procurement officials on that, I am afraid.

Chair: Mr Williams, can you answer that question at all?



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Bruno Williams: I cannot comment on the specific instance here—I am not close enough to the policy—but as a matter of course we undertake the framework-specific technical consultation on a four-nations basis. Very much as the Minister has said, all of the nations who are party to the framework are involved in selecting the stakeholders they wish to invite and conduct the exercise jointly.

Q9 **Chair:** Thank you, Mr Williams. I will come back to you, Minister. Could you confirm that the summary provided to stakeholders is the same summary that was shared with the Committee?

Julia Lopez: I believe so, yes. I may have to come back to you in writing just to be absolutely sure on this.

Q10 **Chair:** That is fine. In any case, why did the Committee not have sight of the summary until December, yet presumably it was available to those stakeholders that you consulted much earlier in the year?

Julia Lopez: Again, I would have to come back to you on that point, Chairman. I am afraid because most of this is conducted at official level, I have not had full sight of all of those discussions.

Chair: I appreciate you coming back in writing, but you understand the point that I am trying to make?

Julia Lopez: Absolutely. I appreciate your frustration as a Committee. We would be keen to provide as much transparency on this as possible, not least because there is nothing particularly controversial or difficult in these proposals. It is just getting that balance between making sure we move forward as, in a sense, four equal parties on this issue.

Q11 **Chair:** Are we to attribute the considerable gap between the stakeholder consultation and producing the provisional framework due to the lateness in the day, as it were, of securing agreement with the EU or have any other matters come into play?

Julia Lopez: My understanding is that we had to make amendments to the outline framework to take into account the consultation responses and the report submitted by the review and assessment panel. These were agreed before the Administrations and the framework was then forwarded to the JMC (EN) for provisional approval in December. We still await that approval, as I say.

Q12 **Chair:** The Committee will be interested to see the list of questions that were asked of stakeholders. Is that something that you will be able to furnish the Committee with?

Julia Lopez: Yes, I can provide you with a summary now, if that is helpful.

Chair: Briefly, if you could. Yes, that would be helpful.

Julia Lopez: Sure. We provided guiding questions in October and we asked for responses by close of business on 5 November. The guiding questions were effectively, "Do you agree with the scope we have set out for this



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framework and the exclusions?” and, “Do you agree that the proposals meet the requirements of the annexed JMC (EN) principles?”

Q13 **Chair:** Would you be able to share the responses of stakeholders to those questions?

Julia Lopez: Yes, I believe so. We can provide that to you.

Q14 **Chair:** Mr Williams, this is a final question from me on this section. Can you confirm that every Department will provide the full list of stakeholders to each relevant Committee for each framework?

Bruno Williams: I can absolutely confirm that the guidance issued by the Cabinet Office to Departments on conducting scrutiny is very much in line with what you have suggested, yes.

Chair: Thank you. I will take that as a yes. On that happy note, I will move across to my colleague, David Jones.

Q15 **Mr Jones:** Thank you, Chairman. Minister, you have said that officials in the four Administrations have had an excellent working relationship. What has been your experience of working with Ministers in the devolved Administrations?

Julia Lopez: On the actual issue of the framework, it is important to understand that our officials have been dealing with the devolved Administrations on procurement issues for some time via bilateral procurement concordats. This new framework approach helps them, because it becomes a multilateral rather than a bilateral approach, which means that the devolved Administrations also have to take into account any divergence among one another, not just between the UK Government and the devolved Administrations. On an official level there has been a long working relationship.

On a ministerial level, I have been in touch with my Welsh counterpart in particular about whether the Welsh Government will be joining us in the procurement reforms that we wish to take forward as the UK Government. That is the basis on which I have been in touch with them, so it has been more about the policy content of procurement, rather than the framework. On the framework, I have not been in touch with my counterparts in the devolved Administrations because these things tend to be done at official level. It comes to ministerial level if there are tensions or policy issues that need to be decided.

Q16 **Mr Jones:** You would obviously agree that the framework has taken a very long time to produce?

Julia Lopez: Yes.

Q17 **Mr Jones:** The holdup therefore would appear to be on the basis of what you have just told us, at official level. Is that right?



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Julia Lopez: My understanding is the Welsh, Scottish and UK Governments are content to move forward. We are just waiting for the Northern Ireland Office to understand whether it is content to publish.

Q18 **Mr Jones:** What is the holdup in Northern Ireland?

Julia Lopez: I confess that is an issue that we do not entirely understand from a procurement perspective. I believe there may be some interrelations with other policy areas.

Mr Jones: Can you explain that a bit more clearly, please?

Julia Lopez: I believe that there are other significant policy issues in relation to the protocol that do not necessarily relate to the frameworks, which may be causing some concern, but it may simply be a matter of administrative capacity. I confess that this is not an area in which I have a great deal of sight as the answerable Minister on procurement, I am afraid.

Q19 **Mr Jones:** Problems in relation to the Northern Ireland Protocol of course have attracted considerable attention recently. Are you telling us now that those problems are spilling over into the issue of the frameworks?

Julia Lopez: I don't think so. It is not entirely clear why there has not been sign-off yet. All I know is that there hasn't been sign-off from the Northern Ireland Executive. I would not want to speculate on why that is, other than I know that there are capacity issues and that there are some other policy issues, but I am afraid I don't have the scope to know exactly. I would not want to speculate.

Q20 **Mr Jones:** Can you explain what you mean by "capacity issues", please?

Julia Lopez: I think that every Administration has had challenges in relation to the workload on common frameworks because of the pandemic and because of the sheer volume of issues that need to be worked through at the end of the transition period. I think that there has just been an understandable knock-on effect when it comes to getting the frameworks in the right shape.

Q21 **Mr Jones:** The need for frameworks has been known since 2017. I was talking about frameworks then, when I was a Minister in DExEU. Why has it taken so long? It is really the pandemic that is causing these problems or there are other issues too?

Julia Lopez: I think that there are a range of issues going on here. The pandemic has led to a delay, but we would not want to speculate on what those other issues might be. All I can say is that at the UK Government we are keen to transparently publish as soon as possible, but this whole frameworks approach is about going forward with the consent of every party to it. Until we have that consent, then we are not content to move forward.

Q22 **Mr Jones:** You say you have had discussions about this with a Minister in the Welsh Administration, but apparently not with the Scottish and



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Northern Ireland Administrations. Given that there is clearly something of a logjam, don't you think that Ministers should be intervening at this stage? Because quite clearly the discussions among officials are not getting us to the place we want to be.

Julia Lopez: It is important to understand that there is a difference between policy and the operational frameworks. The frameworks are in operation already. The issue we are discussing here today is whether there is the transparent publication of the framework, but the actual framework is in operation and it operates very successfully at official level.

The discussions that I have had with my Welsh counterpart were about the procurement Green Paper, so that was a discussion about policy. The Scottish Administration have already decided to diverge on the issue of procurement by coming up with their own procurement policy. My conversation with Rebecca Evans was about whether they will be joining us once the Green Paper consultation is finished and going along with the UK Government approach to procurement policy. That is not about the framework itself.

Q23 **Mr Jones:** To repeat the question, if there are difficulties at official levels, don't you think that Ministers should be intervening in order to seek to clear those difficulties?

Julia Lopez: On the actual publication of the framework, I imagine that on that general issue the Minister for constitutional affairs has been discussing it. I know that she has regular discussions with her counterparts in all the devolved Administrations on the frameworks policy. I am afraid I have not been party to those discussions. On the actual publication of frameworks, that is an issue that she has had discussions with her counterparts.

Q24 **Mr Jones:** Could your office send us a note on the discussions that the Minister has had, please?

Julia Lopez: Certainly. I can just provide some update on that. I believe that the CDL and the Minister had discussions both in September and either in November or December with the devolved Administrations on the common frameworks issue. I would have to get back to you about the content of those discussions.

Mr Jones: Yes, if you could send us a note on the later of the discussions and the outcome, we would appreciate it.

Julia Lopez: Certainly, thank you.

Mr Jones: Thank you very much.

Q25 **Karin Smyth:** Minister, I will move to the Green Paper consultation, but can I just clarify something following David Jones's questions? I am a little confused. Is it the case that the rules in Northern Ireland exist, it is operating to rules, but that we don't know what those rules are and it has not signed up formally to them or are there no rules?



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Julia Lopez: It is very important to detach the policy content of procurement from the framework. The framework is there as a discussion forum for officials when it comes to the direction of travel on procurement policy, but they are not there to set the policy. Each Administration has their own approach to procurement and the framework allows that discussion to take place insofar as there is any divergence or disagreement on that approach.

The UK Government are currently consulting on whether we change our approach to procurement now that the EU transition period has finished and we are discussing with the Welsh Administration and the Northern Ireland Executive whether they wish to also join us in that approach. But as things stand, we are all still adhering—

Q26 **Karin Smyth:** That is the future.

Julia Lopez: Yes. Sorry, as I say, as things stand, we are all still adhering to the procurement rules as they were during the last several years. We have not changed the procurement policy we had while we were members of the EU. This is simply a conversation about the extent to which people want to join us in changing those existing rules. We are all still adhering to the rules and laws of procurement as they were before.

Q27 **Karin Smyth:** Why isn't there agreement? It is that simple.

Julia Lopez: It is about whether to publish the framework, which is a fairly simple document about how often officials meet and the mechanisms for managing any divergence in the future. It is not a policy content issue.

Q28 **Karin Smyth:** Are you actively pursuing the Northern Ireland Executive to get someone to sign it? It is that simple? It seems to be confusing the situation and holding other things up and stopping us from being transparent. It seems like a very minor signature, if that is what it is.

Julia Lopez: I believe that the MCD is having those discussions and pursuing that, because she is as keen as the Committee is to have those transparently published.

Q29 **Karin Smyth:** I will move on to the Green Paper. In the publication of the Green Paper you said that engagement is in line with the way of working that is set out in the common framework, but as you will not provide that, how are we to know whether this is good enough?

Julia Lopez: Whether what is good enough? Apologies.

Karin Smyth: The engagement, the way in which you are producing.

Julia Lopez: Again, it is important to understand that the procurement policy content is a different issue to the procurement common framework. We have been very transparent in the publication of the Green Paper when it comes to procurement reform. On the procurement framework, it has been operating very successfully at official level. It is simply a matter of not having that ability to transparently publish the framework. I can only



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reiterate the Committee's frustration as something that we share, because we want to be able to publish.

Q30 Karin Smyth: I am not sure you can share our frustration. What consideration is there in future intergovernmental consultation on areas of public procurement where they are resolved? What are you learning for future consultation in these processes now so we are not in this position again?

Julia Lopez: I don't know whether Bruno can come in on this, because he is much closer to the levels between—

Chair: Minister, forgive me for interrupting, and Karin, forgive me as well. Ms Smyth, from your question, are you asking whether the lack of agreement from the Northern Ireland Executive on this impedes the Green Paper in any way? Have I read into your question correctly, Ms Smyth?

Q31 Karin Smyth: That was going to be my next question. Minister, you have alluded to it being the UK Government working with Wales and Scotland doing something else. The interaction between the Green Paper and the common framework is certainly confusing some of us, as well as just not being a streamlined or easy process at ministerial or official level, going on to the previous question. Do you have the right mechanism to be able to do both these things?

Julia Lopez: I do not necessarily see the common framework as fundamental at this particular stage, because we are at a particular moment where we are looking at the extent to which we diverge from the current rules and regulations that we have had hitherto. But it has been some years now that Scotland has had its own approach to procurement and those conversations have happened at official level insofar as it has been a challenge to any rules coherence across the UK.

I must confess the common framework issue is not one that I have a great deal of ministerial engagement on and I hope you can forgive me on that. As I say, my involvement has been primarily on a policy content issue when it comes to the procurement Green Paper rather than the publication of something that is effectively a document that sets out how officials can engage going forward.

When it comes to the Green Paper, the Scots are already doing their own thing when it comes to certain aspects of procurement and that divergence is managed at official level fairly successfully. The Northern Ireland Executive and the Welsh Administration will be making a decision as to whether they go along with our own approach to procurement as of the end of the Green Paper. Going forward, those interactions will be managed by the common framework, but on a policy level it should not create—do forgive me.

Karin Smyth: You have been very candid there. I think you have picked up the other question that the Chair asked in terms of how that lack of public agreement may—we are yet to see—have an impact on



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procurement. I guess that is something we might want to come back to when the process goes through. Thank you.

Q32 Jackie Doyle-Price: If I can ask a question of Bruno Williams. We are now moving away from public procurement specifically to the wider common framework programme. The Minister said earlier that effectively we have frameworks that are operational already, they just have not been published. Since they are operational, in the interests of transparency, why have they not been published?

Bruno Williams: In terms of the status of frameworks, you are correct that for the majority of the active frameworks that have had sign-off at portfolio Minister level, but have not yet received full confirmation from the Northern Ireland Executive, those are indeed operational on an interim basis at official level. What that means in practice is that the ways of working set out in the frameworks are already being implemented and that that is likely to be something that follows existing practices broadly.

The question around making frameworks available, I would pick up on the Minister's previous comments, which is that we are very keen to be able to make the frameworks available as soon as possible. As the Minister mentioned, this is a four-nations process and therefore we are keen to move forward on this in lockstep with the devolved Administrations.

There is a wider point perhaps about the transparency of the programme. I could certainly give some details of the publications that we regularly make available on progress with the frameworks programme, if that would be helpful.

Jackie Doyle-Price: Yes, please.

Bruno Williams: There are a couple of publications that I would draw your attention to. All of these are available on a dedicated gov.uk website, which was created recently. There are publications that we put on once a quarter, in line with the obligations under the EU (Withdrawal) Act, which report on the progress being made with common frameworks across the four nations. These are all available publicly, as I mentioned. The next one of these is likely to issue in March. These are always backward-looking, so that would cover the period up to Christmas.

Once a year we also publish an analysis document, which sets out a snapshot of where the various frameworks are at. That is to say, of the 154 policy areas in total, how many of those require a full framework, how many of those are classed as no further action and of those that need a full framework, how many of those are likely to be legislative. That document also sets out a breakdown of the frameworks by Administration. Clearly, as you are aware, the devolution settlements are asymmetric. The larger number of frameworks intersect with Northern Ireland competence than with Scottish or Welsh competence.

The other thing that it is important to bear in mind in terms of transparency is that we have talked about consultation. Clearly there is a distinction to



be drawn between the technical consultation that individual frameworks undergo, and then of course the wider consultation, which would happen as a matter of course when developing the policy which sits underneath a common framework. On this occasion, it is probably accurate to say that there is more consultation for a framework area rather than less because you have the first round of consultation when developing the policy and then a second more targeted round of consultation when developing the process.

Q33 Jackie Doyle-Price: That is very helpful indeed. Notwithstanding that there is a four-nation approach and you are dependent on the Northern Ireland Executive, very much the snapshot itself is a kind of sunlight being the best disinfectant to highlight exactly where all this is. Minister, do you have anything to add to what Bruno has just said?

Julia Lopez: I think Bruno has set it out pretty comprehensively. I can only reiterate our commitment to wanting to get these transparently published as soon as possible. I am sorry to keep repeating myself. This is not the situation I would have wanted to be in. As I say, I do not think there is anything particularly controversial, but unless we have the full agreement then we do not want to go forward. That is really a commitment to the ways of working that we want, that this is not just UK Government pushing this forward without the consent of all parties to the common framework.

Q34 Rachel Hopkins: I am going to push a little further with Bruno Williams. We know that the basic principles around having the common frameworks were identified as necessary and were set out in 2017. Over three years later, there are only three that have been established in provisional form. Why is that? Why has the programme of the common frameworks become so behind schedule?

Bruno Williams: Perhaps if I could start off with a couple of remarks to set the context. You very rightly said that the frameworks programme was established in 2017 and it was of course through the agreement of the JMC (EN), the Joint Ministerial Committee on European Negotiations. The Ministers at the JMC set out a series of principles that recognised that while the devolved Administrations may diverge on certain policy areas, there is benefit in having a coherent UK-wide approach. That is something that is important to bear in mind here—just to recap a fairly obvious point—the framework set out the process for how you would manage that divergence and how you would bring about a common approach.

With that in mind, looking at the delivery of the programme as a whole, I would point towards some of the reports that I mentioned previously, the section 12 quarterly reports, which have been in the public domain for several years and are updated on a quarterly basis. These do set out some of the reasons why the programme has been subject to delays. The main reasons for this are primarily due to the impact of the Covid-19 pandemic, in that this had a significant impact on capacity in both the UK Government and the devolved Administrations. A number of officials across all of the



Administrations were redeployed to deal with the impact of the pandemic and that has had a lasting impact on deliverability.

Of course there is another point, which is that, as the Minister has set out, we are still waiting on provisional agreement from the Northern Ireland Executive. The majority of the active frameworks—and I am very happy to say a bit more about the numbers, if you like, in terms of how many frameworks are active—those frameworks were ready for provisional sign-off at the end of the transition period, so we were very much expecting that it would be possible to provide those frameworks, including the procurement framework, at that point. We are still waiting for that to resolve itself.

There is a further issue, which is around some of the cross-cutting issues, which frameworks need to take account of. These are, in the main, the impact of the Northern Ireland Protocol, the effect of the UK Internal Market Act and the impact of the EU-UK Trade and Cooperation Agreement. Of course the UK Internal Market Act was finalised shortly before Christmas and we are still working through at official level what we think the precise impacts of that are on the common frameworks programme.

There is clearly a choice for Committees as to which stage they wish to scrutinise frameworks, but we consider that there may be value in providing a more worked-up product that takes account fully of the impact of this wide range of cross-cutting issues rather than needing to then come back subsequently with more information on the cross-cutting issues, if that makes sense.

Q35 Rachel Hopkins: You have given a bit more explanation around the delay and you seem to have a handle on the different elements impacting. What firm commitment can you give us on when all the provisional common frameworks are to be agreed and given to Parliament for scrutiny? I take your point about a worked-up draft, but we are looking at parliamentary scrutiny.

Bruno Williams: Absolutely. Working back from the end point, which is full implementation of all frameworks by the end of 2021, I would put these into two separate groups. Clearly we need to take account of the fact that some frameworks are more impacted than others by cross-cutting issues. I would say that for the first group of frameworks, which is of the 32 active frameworks, we consider nine of these to be potentially faster-moving frameworks.

That includes the three that have already received provisional confirmation from the JMC (EN), that is to say nutrition, food and feed and hazardous substances, then the six NI-only frameworks, which only intersect with UKG and NI, which is four owned by DfT and then specific quantities in company law. Subject to receiving the requisite clearances, we consider that those frameworks could be fully implemented by April/May 2021.



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The majority of the frameworks, the remaining 23, which include all of the DEFRA frameworks, all other BEIS-owned frameworks and DHSC frameworks and public procurement, we are expecting that they will be made available for scrutiny by the summer in the majority and a small number of those in the autumn. The reason for that is primarily that we have a number of cross-cutting issues to resolve. Our target for resolving those with the devolved Administrations is the end of April, then there is a subsequent period of stakeholder consultation that we think may be required before those frameworks are in a place where they would be suitable for undergoing scrutiny. As I say, we expect to get the majority of the frameworks to the Committees for scrutiny in the summer.

Q36 Karin Smyth: That is very helpful, Mr Williams. You will be taking the cross-cutting issues to the end of April, which of course takes us into the election period in Scotland and Wales, I understand. Surely that will impede that timetable a bit more or have you factored that purdah period in?

Bruno Williams: That is a very good point. We regularly discuss this sort of issue around developing the programme with the devolved Administrations. I have monthly project board meetings with my opposite numbers across all the devolved Administrations and we did discuss this recently. We are waiting for Scottish and Welsh colleagues to confirm the extent to which the purdah period will impact on their ability to do this sort of work, but we are very much expecting that it will still be possible to make progress at official level during that time.

Q37 Karin Smyth: But we recognise that there might be a bit of slippage. The direction of that, what you have said about those cross-cutting issues, the protocol, the UK Internal Market Act, the trade agreement and so on, there are substantial issues. Is the feeling that you might take those out so that you can get agreement on all the others? Is that what you have just said? Forgive me if I didn't quite follow. They might impede the agreement and the publication, so therefore taking some of the cross-cutting issues out may facilitate faster agreement and we can deal with them differently.

Bruno Williams: I would not necessarily characterise it in those terms. I would say that there are some frameworks that are, by their nature, less subject to intersections with the cross-cutting issues—hazardous substances is a key example—and in that case, given that we are not waiting for the work that is still outstanding on the cross-cutting issues to be completed, it may be possible for those frameworks to move faster.

In the main, the way that I would characterise the intersect with cross-cutting issues is that these are areas where we know that they will have a bearing on the operation of the framework to a greater or lesser extent. To take one example, as you may be aware, when the UK Internal Market Act was going through Parliament there was an exclusions concession. The Government agreed that around sections 10 and 18 of the Act, in terms of clarifying how the intersect between the Act and common frameworks might operate and clarifying that there is a point at which the Secretary of



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State could choose to exclude certain types of divergence agreed through a framework from the provisions of the Act.

That is something we are working through at official level, given that there are a number of questions one could ask about how that will be operationalised. That is one example. The Northern Ireland Protocol is another example. I think it is fair to say that the frameworks do not have an impact on the implementation of the protocol, but the protocol is one of the possible drivers of divergence. We are therefore working at official level to take account of how the frameworks might operate and making sure that we understand both the forthcoming EU legislative programme and then also the detail of how a framework, this working level agreement, to take account of ways of working would be able to factor that in. I hope that helps.

Q38 Karin Smyth: Thank you, that does. That is official level you would be looking at that framework in terms of the protocol and the impact of changes in legislation, yes?

Bruno Williams: The work to determine how that will operate is currently going on at official level. We will of course want to sight Ministers on that in due course.

Q39 Karin Smyth: I will move on to a question about something you said on the frameworks Committee. You said that the development of the common framework continues to be a positive process. We are out of the transition period and they are not all published. Do you still feel it is a positive process? What assessment has been made about the success of collaborative working practices, given that deadlines aren't being met?

Bruno Williams: From my perspective as an official, it is a very positive process. I mentioned that there is a project board which comprises UKG and devolved Administration representatives. That meets once a month at my level and I have a very close working relationship with my devolved Administration opposite numbers. We are undertaking the common framework programme in the spirit of collaborative and joint endeavour. There is a real sense of common purpose and a desire to succeed and to do so at pace. That is also something I think Ministers reconfirmed at the JMC (EN) meeting in September, one of the meetings that the Minister alluded to earlier.

Your question was about official level relationships, so getting back to the project board, that is underpinned by a series of weekly meetings at working level which prepare the project board, then there is also the relationship between Departments and their devolved Administration opposite numbers, and of course between the Cabinet Office and the rest of Whitehall. All of these discussions, in my experience, point to a sense that this is a very effective collaborative way of working and that we are all working towards a common goal and doing so in the best possible spirit.

Q40 Karin Smyth: Do you think then that the timetable at the end was always



the realistic timetable?

Bruno Williams: Thinking about my own experience, when I started in this role at the end of 2019, it was very much a realistic delivery expectation at the time. That was obviously before the pandemic and it was before plans for the UKIM Bill were taking shape. It is important to recognise that a number of things have happened in the meantime that make the delivery picture more complicated, but as the Minister for the Constitution and Devolution mentioned in her remarks to the Lords Common Frameworks Committee last week, there is a lot of complexity. We should not attempt to shy away from that. The point of the common framework is try to make sense of and manage that complexity.

Q41 **Tom Randall:** If I could stay with you, Mr Williams, could you tell us how the Cabinet Office has co-ordinated the common framework programme?

Bruno Williams: Absolutely, yes. The way I would typify the relationship across Whitehall is that the Cabinet Office has overall responsibility for delivering the programme and Departments—and I say Departments because obviously the Cabinet Office owns the public procurement framework, but in the main I am talking about other Departments—are responsible for the individual frameworks. Thinking about the active frameworks, that is mostly DEFRA, BEIS, DHSC, the Food Standards Agency and the Department for Transport.

The Cabinet Office is responsible for convening the programme, for ensuring that we issue guidance on matters that affect all of the Departments, such as scrutiny, governance and dispute resolution and then it is up to Departments to deliver those frameworks. We obviously keep a very close eye on how that is progressing. We also convene review and assessment panels at official level, which are effectively a way of putting the tyres on the frameworks: are they ready to go forward to ministerial level clearance? That was a large body of work for my division back in November.

Then of course the Cabinet Office also has an interest in co-ordinating the way in which external engagement and consultation happens. Again, we issue guidelines to Departments on how to do that in the most effective and joined-up manner.

At ministerial level, it is a very similar picture in that the Minister for the Constitution and Devolution is overall responsible for delivering the programme and of course the Chancellor of the Duchy of Lancaster is the responsible Minister at Cabinet level. That is something that is replicated more or less at devolved Administration level, with the various Ministers in the centre, if you like, being responsible for the programme as a whole.

Q42 **Tom Randall:** In terms of the role that you play in co-ordinating and keeping this programme on track, it is those meetings, kicking the tyres and the review meetings, that is your primary role, would you say?



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Bruno Williams: I would say there are a number of ways in which we do this. The review and assessment panels are a key milestone in developing the frameworks. There is a distinction here between what happens at official level and ministerial level. At official level, I meet with my Whitehall opposite numbers once a fortnight and then there is a more junior forum that also meets to keep track of delivery. Then the Minister for the Constitution and Devolution from time to time has meetings with her opposite number in the key framework-owning Departments to take stock of progress and to ensure that the programme is on track.

One final point, just to get back to the public reports that we issue once a quarter, the section 12 reports, they of course do paint a picture of how the various frameworks are progressing.

Q43 **Tom Randall:** Do you think these measures have been sufficient in terms of progressing this or do you think more work could have been done by officials or Ministers?

Bruno Williams: From my perspective, the delays that have occurred have been largely due to factors outside the control of the formations that I have mentioned, so it feels as if we have, by and large, the right structures in place. That is my take on it.

Q44 **Tom Randall:** My next question, which you have probably covered generally, is that to ensure that those other Departments are giving the right amount of attention to the common frameworks and are delivering them on time, what mechanisms are available in the Cabinet Office to ensure that Departments are doing that?

Bruno Williams: There are a couple of things that we are seeking to do from the centre, one of which is that given we have a relatively large number of people focusing on common frameworks in my division and in Departments of course there are many competing priorities, we are undertaking a lot of the work that I talked about on cross-cutting issues. We are undertaking our own investigations, working with Departments and then going out to Departments to validate those findings, but much of the co-ordination of that is done by ourselves.

We spend a lot of our time on project management, so we produce detailed Gantt charts and risk registers and we share these with Departments and indeed with the devolved Administrations for their validation, but a lot of that work is very much driven by the Cabinet Office. I think the same is also true of governance and indeed engagement, where it is very much the Cabinet Office that generates the view as to what the cross-cutting governance structures should look like and then goes out to Departments to get buy-in for that.

Q45 **David Mundell:** Mr Williams, what is the objective in terms of the negotiation of the frameworks? Because the term "common framework" would tend to suggest that the aspiration was for a common approach across the whole of the United Kingdom, and you just told us previously,



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for example, in relation to this procurement framework that there is going to be a different approach in Scotland. What was your approach in going into that discussion? Were you looking to achieve a common approach across the whole of the United Kingdom or is that not how you approach these things?

Bruno Williams: I am less well qualified to speak about the details of the procurement framework, but in general as a rule, our guiding principles are very much those set out by JMC (EN) Ministers in 2017. Just recalling some of the main tenets of those principles, they recognise that it is desirable to have common approaches. They recognise it is within the devolved Administrations' prerogative to agree divergent approaches in line with their competence. They also recognise that common frameworks play a key role in supporting the UK internal market. It is very much in that spirit that we have been taking work on the programme forward.

The common frameworks, in my view, are flexible enough to accommodate different policy approaches and they are very much designed with that eventuality in mind. But of course just to stress the point made by the Minister earlier, common frameworks are all about ways of working and they are not about determining policy outcomes.

Q46 **David Mundell:** Even taking into account that JMC deliberation, which I was part of at the time, it allows for an aspiration that common frameworks should apply a common approach, while allowing for a difference, if that is ultimately sought. Shouldn't the approach in these discussions be to seek a common approach wherever possible? Because, for example, in relation to the frameworks on procurement, the outcome is surely that businesses looking to do business across the United Kingdom are now going to be asked to do that differently in Scotland, for example, from other parts of the United Kingdom. On the face of it, that does not seem to be a particularly good thing.

Bruno Williams: Without wishing to pre-empt where the individual frameworks will end up and how they will operate in practice, I would agree that the aspiration is very much to have common approaches where possible, but recognising that there may be divergence, where appropriate, and that whatever ends up happening, the outcome can be managed in a coherent way across the UK. That would be my aspiration for the common frameworks programme, but the main thing is that there is effective collaboration across all of the devolved Administrations and UKG underpinning these ways of working.

Q47 **David Mundell:** I am not going to criticise you for what I would regard as civil servant speak, for not having a clear UK Government approach in terms of what the objective for these frameworks should be, because I can understand why that is the case.

I will move on and ask you when we can expect to see the proposals for long-term arrangements for a common framework system being in place.



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Bruno Williams: This refers to what we call in the jargon phase 5, which is effectively the phase post the final sign-off from Ministers across UKG and the DAs and what the steady state of framework looks like, is that correct?

David Mundell: Yes.

Bruno Williams: Yes, indeed. As the Minister for the Constitution and Devolution mentioned when she spoke to the Lords Committee last week, the aspiration is very much that in the steady state common frameworks are mainstreamed into what we might term as Department business as usual. In line with the point about Departments owning frameworks and being responsible for their operation, I think it is natural that at some point the centre would slightly scale back its operations in this respect.

We are still working on what that might look like in practice. This is something that will be taking up some of our time in the coming months, while also of course continuing to focus on delivery of the programme. I am not able to say a great deal about this for the time being, but what I can say is that we will definitely keep the Committee up-to-date with our thinking on this matter. The direction of travel is very much as the Minister set out last week in front of the Lords Committee.

Q48 **David Mundell:** Has any consideration at all been given to how frameworks will be reviewed or amended?

Julia Lopez: On the public procurement framework, the intention is that there will be twice-yearly working groups that will go through any changes. They will review whether the framework has worked in practice and whether any changes need to be made to it, then it will be all agreed, insofar as there are changes required, by all Ministers in the four Administrations. As I say, the proposal—at least in public procurement—is that there will be a twice-yearly review.

Q49 **David Mundell:** Mr Williams, in relation to the wider issue, what consideration has been given to what the process will be for creating new frameworks?

Bruno Williams: If we consider that the programme is bounded by the 154 framework areas, which are of course the areas where powers are returning from the EU in areas of devolved competence, if we consider that to be our boundary, it is possible that the number of active frameworks could change over time. In the reports that we publish annually on the status of individual frameworks we have always been clear this is a snapshot. While you would expect over time more frameworks would move from active status to what we currently term “no further action”—meaning that established ways of working are sufficient and there is less likelihood of divergence emerging and therefore no work is needed—while we would expect that the direction of travel would be from full frameworks towards no further action, as has happened, it is of course possible that the direction of travel could go the other way. We are always open to looking at the case for new frameworks if it is something that all four parties can



agree to, but I would consider that the framework programme is bounded by those 154 policy areas that were set out at the outset.

Q50 David Mundell: What consideration has been given to what the arrangements for ongoing parliamentary scrutiny of the common frameworks and the common framework system will be?

Bruno Williams: This is something that we are considering in terms of the phase 5 implementation work that I mentioned, which is of course ongoing. The main point there is it would be very much up to Departments to determine what the appropriate means for scrutinising framework would be in light of enhanced departmental ownership.

Q51 David Mundell: A question for Minister Lopez, although I do understand that you are standing in for Chloe Smith and it is not your primary remit. From your perspective, even in your engagement with this issue, what does the common frameworks programme tell us about the current state of intergovernmental relations in the UK? For example, on the basis of the evidence today it would suggest that intergovernmental relations with the Northern Ireland Executive are not fully functioning.

Julia Lopez: From my procurement perspective, I have had positive relationships with devolved Administrations. The very fact that we are having these discussions helps me to have more of an eye to the effect of UK Government policy in different areas. It has been a helpful thing from my perspective. Insofar as the call for Brexit was about trying to devolve more power to people locally, I think it has been a helpful discussion, which has given central Government Ministers more sight of what is happening in every area of our country.

There are obviously tensions to be worked through, but I think there is also an understanding through the common frameworks of the fact that it is in everybody's interests to have as much commonality of approach as possible, while also allowing a level of local divergence in the procurement reforms that we want to take forward. For instance, in sub-threshold areas, we hope that we will be able to have more localised approaches that would benefit, for instance, local businesses in a particular area to deliver more local council contracts. In a sense, the common frameworks are trying to get that right balance between having a shared approach and also allowing for that more localised approach.

In terms of the intergovernmental relations more generally, there are obviously going to be a lot of issues that need to be worked through. We have gone through a massive constitutional change in leaving the EU. The idea that all of those powers could be returned from Brussels and not create any sort of discussion—or indeed argument—about who gets to exercise those powers and what challenge any divergence could bring to intergovernmental relations, this was always going to happen. I think that those problems are surmountable, but we are all working in a new environment here.



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There has been a lot of discussion about the process of Brexit leading to a weakening of the Union, but I think that it could lead to a stronger Union because of these very discussions that we are having, where we work out what is something that is best devolved and decided locally and what is something where a shared approach is in everybody's interests. At official level, I think broadly there is an understanding that a shared approach on the majority of issues is a welcome one.

Yes, I think there are short-term issues in intergovernmental relations. I am not going to try to gloss over that, but I think ultimately some of these discussions will be productive and fruitful in helping us move towards a stronger Union.

Q52 David Mundell: I certainly share that aspiration, although my experience was that agreement between officials in the Scottish Government and the UK Government did not necessarily lead to, unfortunately, ministerial agreement, but we will see as that develops. Certainly from my perspective and perhaps the wider Committee, would it be possible just to drop us a note of the main differences between the approach on procurement in Scotland and that of the UK Government so that we can understand why a different approach has been pursued and if there are benefits flowing from that? On procurement, it is a little counterintuitive to me, I have to suggest, that there would be differences for businesses who wanted to do business with the Scottish Government compared to the UK Government or indeed the other Administrations in the UK.

Julia Lopez: Certainly. It is important to understand that regardless of the approach that each Administration or the UK Government wishes to take on procurement, we are all governed by the government procurement agreement at the World Trade Organisation, where there are some basic principles to which we all need to adhere. The scope for divergence is always going to be limited.

As I alluded to earlier, it is not just about the devolved Administrations wanting to take a more tailored approach to some of their local issues, but that is something that we want local authorities to be able to do as well underneath certain thresholds. The key here is the threshold approach. For smaller Government contracts, you may be able to take a more localised approach. That does not need to be in conflict with adhering to an overarching set of principles.

You discussed the difference between officials and Ministers. I do not wish to overstate the frameworks issue. Officials are able to get the majority of these discussions on a very positive working basis. It is only on set political occasions in a sense that some of these issues flare up. Those issues are relatively limited. I know from my discussions with the devolved Administrations that there is broadly a positive approach to taking common procurement rules, notwithstanding the Scottish Government, who have always taken their own approach on procurement in terms of legislating the EU rules that they could separately to the UK Government. As I suggested earlier, they already had bilateral procurement concordats



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between UK Government officials and Scottish Government officials. I do not want to overstate the trouble that any difference of approach will create for businesses in this regard.

Chair: Thank you. Before we go to John McDonnell, there is a quick supplementary from Karin Smyth.

- Q53 **Karin Smyth:** Thank you, Chair. Following on from that, that is fine for Scotland and I think it would be helpful to have that letter, but the situation with regard to Northern Ireland is fundamentally different, because the UK Government have agreed a different series of Acts and the protocol as part of the EU (Withdrawal) Act for Northern Ireland. I think we do need to have reflected back to the Committee in any correspondence that comes back whether it is a political issue or an official issue, the fact that with regard to Northern Ireland it is a different constitutional and legal agreement. It would be helpful to have that at the same time as we have the situation in Scotland so that we are very clear. As Mr Williams has alluded to, the protocol and in particular the Internal Market Act make it a fundamentally different position with regard to Northern Ireland. In the correspondence, could we reflect that as well, please, Minister?

Julia Lopez: Certainly, I would be happy to do that.

Chair: Thank you both. John McDonnell for our concluding questions, please.

- Q54 **John McDonnell:** Thank you, Chair. If I could comment on Karin Smyth's point, it would be extremely helpful to get clarity around that particular issue in relation to the implications of the protocol on all of this.

Minister, this is my first meeting on this Select Committee since I joined the Committee, so I have chosen the perennial question, I am afraid, which is this: we had a commitment, as you know, from the Chancellor of the Duchy of Lancaster to publish a Dunlop report and a review of intergovernmental relations by the time the Internal Market Act came into law, and failing that, by the end of 2020. After the end of 2020, this commitment became, and I quote, "in due course". When will the Dunlop review be published? If you are going to use expressions like "in due course" or "shortly" or "as soon as practical", could you give us a timescale on that? Is it April, May, June, before the summer recess?

Julia Lopez: Thank you, Mr McDonnell. I welcome you to the Committee. This is both of our first appearances. In my case it certainly shows, for which I apologise, but the Committee is aware that I am not as close to these issues as I would like to be when presenting to a Select Committee.

I am afraid I am going to have to use, in this instance, the phrase "as soon as possible" on the Dunlop review. I understand that there is a keenness from Government to publish, but we are not quite in a position to be able to do that yet. I am sorry not to be able to give you greater clarity on that.

- Q55 **John McDonnell:** I appreciate you are having to stand in for other Ministers on a number of issues and this matter. The whole Committee



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appreciates that. The problem with the Dunlop report is that the Chair of this Committee and the chairs of the other departmental Select Committees have been able to see the report, so we know it exists and it is finished. This is not a divinical matter anymore, it exists. Why hasn't it been published yet?

Julia Lopez: I am afraid I am not close to the detail on this. In terms of the specific reasons, I have just been advised that it will be published as soon as possible. I am sorry that I cannot provide you with greater clarity about when that might be, even if it is in broad terms, whether it is April or June or whenever.

Q56 **John McDonnell:** If there is anything that you could do by way of a note, that might help us along this path for some clarity. That would be extremely helpful.

Julia Lopez: Certainly. I will include that in the procurement note that I will endeavour to provide you.

Q57 **John McDonnell:** Thank you. Turning to you, Mr Williams, would the common frameworks programme be in a better position, do you think, if there were stronger intergovernmental relations at this time?

Bruno Williams: From an official perspective, as mentioned previously, I think the working relationship on frameworks is very good. The interesting point here is the relationship between frameworks as a programme and the intergovernmental relations review, in that clearly you could look at it both ways. On one hand, the intergovernmental relations review will set the context in which frameworks are developed, but also I think frameworks are an example of strong intergovernmental relations in practice. That has certainly been my experience.

We are continuing to make progress with the programme at official level. Indeed, the Joint Ministerial Committee on European Negotiations gave a very strong commitment to the frameworks programme when it met, particularly in September of last year, so I would definitely consider the frameworks programme to be an example of robust and healthy intergovernmental relations in action.

Q58 **John McDonnell:** Will the intergovernmental review therefore help you improve the relationships that you have with your colleagues in the devolved Administrations? What would you look to see coming from that review to help you in that respect?

Bruno Williams: Personally I think the main thing that would change following publication of the intergovernmental relations review is the dispute resolution mechanism, if necessary. There is a new set of architecture and governance that I think is likely to be proposed as part of that review and that will include dispute resolution mechanisms, should they be necessary.

John McDonnell: Sorry, Chair, if I can. Could you just clarify that a bit



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further?

Bruno Williams: I think the main point is simply that, as things have been operating until now, the Joint Ministerial Committee on European Negotiations has been the ultimate arbiter of any disputes. Of course one would expect that any disputes could be resolved at official level first and, if necessary, then escalated to ministerial level. I would simply observe that it is likely that under the review of intergovernmental relationships that architecture would change. I think that is the only observation on that point.

Chair: Thank you, John. In concluding our session today, can I thank the Minister for her first appearance before us? We certainly look forward to other occasions and I am sure she shares that sentiment. We are very grateful to her for standing in for her colleague on a number of those questions. Also thank you very much indeed, Mr Williams.