



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

Corrected oral evidence: Post-Brexit common frameworks

Tuesday 13 July 2021

2.30 pm

Watch the meeting

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

Evidence Session No. 13

Virtual Proceeding

Questions 154 - 164

Witnesses

[I](#): Chloe Smith MP, Minister of State for the Constitution and Devolution; Bruno Williams, Deputy Director, UK Frameworks Division, Cabinet Office.

Examination of witnesses

Chloe Smith MP and Bruno Williams.

Q154 **The Chair:** Good afternoon, committee. It is lovely to see you all. A very warm welcome to the Minister of State at the Cabinet Office, Chloe Smith, and to Bruno Williams, who works with her. It is absolutely lovely to see you, Chloe, and we are delighted to see you looking so well.

This is the 13th session of evidence we have taken in this committee so you will be very well used to us and, indeed, we to you. We have three absences this afternoon. Lord McInnes is not with us, neither is Lord Hope, and neither is Lord Garnier. The rest of us are certainly very happy to be here and looking forward to continuing the conversation, which seems now to have begun quite a long time ago.

I want to say, first of all, to both the Minister and Mr Williams how much we appreciate the degree and the quality of engagement we have had with you over the past year. It has made a great difference to the way the committee has been able to conduct its work, and I think that we have had a very good dialogue. We recognise the need for some mutual improvements in the process, as well as recognising the progress that has been made and some of the difficulties.

This afternoon will be a catch-up of a sort but also to share some of your reflections on how the process is going at the moment. I will start off with an all-purpose question, because I know that my colleagues will delve into more detail of some of the specific issues and challenges. Minister, could you reflect with us on the progress of the common frameworks programme since you last spoke to us in February? I am putting it in that way because I think that you might agree with me that we were all a bit optimistic in the beginning about how this process would flow. At your first meeting with us in 2020, you thought the majority of frameworks would be finished by December. In February, you thought they might be finished by the summer. Clearly, they are not and it was a very ambitious expectation, but perhaps perfectly realistic at the time. My question is, therefore, not only to ask you to reflect with us but also to tell me whether you think that the process was always likely to be doomed in some way in terms of the timetable and whether there were flaws that you now recognise might have been addressed earlier.

Chloe Smith: Thank you very much, Lady Andrews, for inviting me to be with you again and, indeed, for your kind comments. It is lovely to join you again.

I think that I speak for both Bruno and myself in saying that we have also valued the work with you and the scrutiny that your committee has performed. It has been an excellent structure to put around the necessary parliamentary stages of this work, albeit that some of that scrutiny has, as you accurately say, come a little later than ideally we would have wanted at the outset.

Your suggestion that the goals of this programme have been both ambitious and realistic is something that I would agree with. I would characterise my reflections as that there has been an enormous amount of value carried by the frameworks programme already. I will begin with that and perhaps intertwine here a little update on where we have got to, which I hope will set the scene for the rest of the committee's questions as well.

It feels like we have a positive gesture for work with the devolved Administrations and between those colleagues and the UK Government. For me, that takes its cue from the recent Covid recovery summit that the Prime Minister hosted with the new leaders of the devolved Administrations, or I should say refreshed leaders of the devolved Administrations after their elections.

What I think we can also see in that same amount of time is progress being made on intergovernmental relations—you will have seen the progress update that we published in the spring—and the commitment to finishing that piece of work is as strong as ever. I know that your committee has also taken a great deal of interest in Lord Dunlop's report, which again has been published since we last met. I thought that his finding on common frameworks was very helpful in that they prove that the UK Government and the devolved Administrations can come together as partners in a common endeavour. That would exactly be my first reflection on the programme.

My second reflection would be that steady progress has been made. You will know that the first framework has now been fully implemented; that is hazardous substances (planning). Seven have been provisionally confirmed, six of which were shared with the committee and published. You know the position around the seventh framework, which is public health, which for perhaps wider understandable reasons is still being worked upon.

I would particularly like to give you an update on the question of Northern Ireland Executive clearance. As you will recall, this has been an issue in recent months with the programme. We have been very clear all along that decisions have to be taken jointly here because it is a four-way partnership. We spoke about that at some length the last time I was with you. That again is a reflection for me on the programme, that that has always been true and has to remain true that it is a four-way partnership. I am pleased to be able to update the committee today that last week Ministers from all four Administrations confirmed that 21 further frameworks have now met the required clearance from all four Administrations.

I have also held very productive discussions on frameworks with my new Scottish and Welsh counterparts in the last week and hope to meet the refreshed Northern Ireland ministerial team soon. These discussions are very important in the context of determining Ministers' and the Administrations' priorities; that is quite understandable, given that there have been elections in the case of two and new leadership in the case of

the third. My priority in those meetings will be to ensure that we can continue to progress this programme, including being able to come back to you.

The other topic that I am sure you will want to have an update on is the progress of what we call the cross-cutting issues, these being the United Kingdom Internal Market Act, the Northern Ireland protocol, international relations, the trade and co-operation agreement, and wider intergovernmental relations. You will be familiar with the set of five. You have from my officials a list of how we think each framework intersects with each of those five.

The update to give on this would be that I and my counterparts in the devolved Administrations think it is very important, ideally, to resolve those issues before we enable frameworks to progress to scrutiny because they will be a better quality of product for you and for those who are regulated and affected by the contents of frameworks. My aim is to do that as soon as possible, with my colleagues, and my hope would be to be able, therefore, to share more frameworks with you in the autumn.

The final thing to say in answer to your reflections question is how much work is also going on behind the scenes. This is really what is enabling the cross-cutting work to go forward. By the very nature of those five things, they are complex and in some cases more political than others as well. Officials and Ministers are working very hard to move each of those forward.

A reflection within that, though, would be that even while that has to go on, there is also practical success visible. To give two examples of frameworks working in the practical ways that they were intended to, you have a strong example from the plant varieties and seeds framework, which was what enabled the joint discussion that allowed for the decision on the expiry of the temporary authorisation of seed potato imports from the EU—there is one for all the lovers of seed potato imports this afternoon—and a further one under the nutrition framework, where that has been actively used in a number of areas. It has allowed the agreement of a position on the implementation of an EU regulation on formula milk. These are important everyday things and are in practical operation.

So, drawing this rather long first answer to a close, Chair, what you see in this programme is something that is capable of producing practical success, is meaningful for businesses and citizens—they have always been my priority, as you will remember—and is an emblem of good joint working between the Administrations inside the United Kingdom and which we intend to continue to use to make stronger our relationships and to be able to conclude these other important issues that go with them.

Q155 The Chair: Thank you very much, Minister. That is an extremely helpful and very positive reply. I could not agree with you more that when you see the specific outcomes of the agreements in operation, the most

obscure become very meaningful.

There is one question from me, and I know that my colleagues will want to pick up some of the others. We do absolutely appreciate the complexity of trying to calibrate the frameworks against these five massively complex cross-cutting pieces of legislation and international agreements and so on. When you say that you have confirmed 21 of the outstanding with the four Administrations, does that mean that we can expect the frameworks to flow faster, possibly even over the next few weeks but certainly from September or October onwards?

That is an important question for the committee to have some clarity on because our work programme is very much dependent on the speed, not least of the slowest. We have had some issues with Defra, which we have drawn attention to in our correspondence, because, of course, the bulk of the outstanding frameworks are from Defra. If we knew with some certainty that those frameworks were likely to be with us now definitely before Christmas, it would make a difference to the way we plan our programme of scrutiny.

Chloe Smith: I quite appreciate the committee's need to be able to plan and deliver its own work, and I am very grateful for the way you approach that. The aim remains to be able to deliver the programme before the end of this year, to your point about before Christmas. We remain committed to being able to complete it within 2021. That is a commitment that I am very confident my opposite numbers share and, as I say, I have been speaking very recently with Mick Antoniw and Angus Robertson on exactly how we get to that.

On the specific status of the 21 that I mentioned, it is probably worth me being a little clearer in turn about exactly where we stand with those. What has happened is that the UK Government and the devolved Administrations have agreed and confirmed and were public about this last week that we are all in agreement to take a pragmatic approach to adjusting the provisional clearance process. That is allowing for portfolio Ministers to provide clearance, which would represent provisional confirmation, rather than having to convene any higher level than that. Provisional clearance, as I think we have discussed before, is the agreement by the Administrations in advance of resolving any related cross-cutting issues and in advance of publishing frameworks for parliamentary scrutiny.

The result of all that is that 28 frameworks have now received provisional clearance. That includes the 21 we are talking about there, plus the seven of which you were aware earlier on. What this means, then, in practice is that policy teams are now able to take the development of those further. Take that with the point I make about hoping to get these to you by autumn and I hope that will give you enough time to complete your necessary scrutiny.

The Chair: Yes, that is, of course, what we very much want to be able to do, for obvious reasons. Thank you so much. I will now ask Lady Randerson to pick up on some of the other issues that have emerged in

our exchanges.

Q156 **Baroness Randerson:** Thank you very much, Minister, for your answers so far.

Taking this issue further, we have identified considerable variability in quality of the framework summaries that we receive. In fact, you will be aware, I am sure, that we wrote recently to Defra expressing concern about some issues with this. Some lack any meaningful detail, to be honest, and there is a particular variability in the approach to consultation. We had one recently where there was only one consultee. Others have a more significant list. Earlier on we asked why there was no general open public consultation for each of these, and we were told it was because time was too short. The timescale has proved extremely elastic on this, so it clearly is not a long-standing reason for this.

My question to you, Minister, is: do you share our concern about variable quality of the common framework summaries? What do you think is the cause of this? How are the devolved Administrations encouraged by the UK Government to compile their own list of consultees? Are they encouraged in any way to do that or is it simply left to them to add some names to the overall list that is included in the summary?

Chloe Smith: I am very happy to get into this. This is an important approach to the way that departments will take charge of frameworks in the time to come. I have made the argument before at this committee that in terms of how the UK Government organise themselves, it will be appropriate for frameworks to be owned, managed and taken forward by departments and, therefore, that those departments will be the ones working with you to provide you and the rest of Parliament with the right products. I am still absolutely committed to that, so what my officials have been doing and will continue to do is to support departments in making sure that they are providing you with the products that you need and ideally to a quality that will fit the bill.

I think that it is worth adding to that a point about the way that the summaries are in themselves only, if you like, a temporary product. Of course, the frameworks themselves are the main product. Our focus will be on supporting departments to provide the summaries so that you can get a handle on the work but, of course, to ensure that the principal focus is on the framework itself and on appropriate support being given from the department to you around your scrutiny of that and other committees' scrutiny of that in the time to come.

Consultation remains an absolutely central piece of the programme. I believe that I am right in saying that it would not have been me making the argument to you that it was not the right time to do a wide consultation. The point I think I have always consistently made with you and in public is that per framework a targeted stakeholder approach is more likely to be fruitful. That is because of the often very specialised nature of what is governed and covered by the policy that makes up the frameworks. I stand by that principle and think that has seen the programme in good stead.

I could not help but reflect on the transcripts of your previous sessions with stakeholders in a couple of different industry sectors, which I found fascinating. To my mind, it confirmed this point that very often the subject matter that is covered by frameworks is technical, in a few cases esoteric, but certainly specialist.

Targeted stakeholder consultation I think has been sensible but, as I hinted at in my first answer, I am extremely keen to make sure that we can progress the overall scrutiny, transparency and publication efforts so that the general public can see them if they want to and, rightly, hold Governments to account for what they are doing in each policy area per the devolution settlements and how the Governments are working together. I think that is very important.

Baroness Randerson: To follow up on that, the situation varies so much from one framework to another, but we have come across one of the Welsh farming unions being consulted and not the other, which those of us from Wales on this committee know would be a serious error of judgment by anyone who did that. The point I am making is that there is such variability from one to the other. It is not just an issue of targeting. Could you also explain to us how the devolved Administrations are linked in with this process? Are they asked to get on with it themselves or are they asked simply to provide names or is it done for them?

Chloe Smith: Sorry, forgive me, I did not answer that part of your first question.

Baroness Randerson: Sorry, it was a long question.

Chloe Smith: Forgive me, I got the other parts of it but not that part. The UK Government are not telling the devolved Administrations which stakeholders to include. I can confirm that very simply. Each of the Administrations involved in a framework are able to bring what they think are the right stakeholders to the table. It is as simple as that, and that is what we have been doing throughout.

For completeness, I can also answer the question about how devolved Administrations are involved in the summaries. I think that it was the summaries where you were saying there is variety in quality. Again, because this is a joint programme, officials from all the Administrations are working together to produce those documents. I am very happy for Bruno to perhaps give you more detail on that if that would be helpful.

Bruno Williams: Thank you, Minister. I was going to make the very same point that you did, which is that this is a collaborative exercise. There is certainly no suggestion of the UK Government mandating devolved Administration colleagues to consult or not consult certain stakeholders. It is very much a joint endeavour. I think that is the same point you were making, Minister.

To perhaps come back to the point about targeted consultation on the frameworks themselves, I would also put this in the context of some

often very much wider consultation that has happened prior to the framework being developed but in the same sort of area. For instance, with the emissions trading scheme framework owned by BEIS, in 2019 there was a joint consultation on the policy. It was jointly operated by all four Administrations, a very large-scale public consultation on the future of emissions trading. The outcome of that consultation informed the policy development on which the framework itself was based. I think that it is important to draw a distinction between the consultation that takes place on the underlying policy and then, of course, further, more targeted consultation that takes place in terms of how the Administrations work together.

Baroness Randerson: Thank you so much. That is really helpful.

The Chair: Thank you. I will move now to Lady Ritchie and some questions about Northern Ireland.

Q157 **Baroness Ritchie of Downpatrick:** Minister, you are very welcome and I am glad to see you looking so well. I have been on that journey and I hope I am on the right side of it as well.

You refer to the 28 frameworks that now have received the provisional clearance process. In relation to Northern Ireland, what does provisional clearance process actually mean? Does it mean that they are ready to approve them so that they can come back to yourselves in the Cabinet Office and to Defra in some instances? Does that mean that we will be able to scrutinise them? What is the timescale or timeframe in relation to that?

You suggested that you will be meeting the revised ministerial team in Northern Ireland, presumably the joint First and Deputy First Ministers. What is the timeframe for that actual meeting and will you be discussing these frameworks and the considerable delay that they have had on one side in bringing them to a position where they are released for scrutiny? Will you and the Cabinet Office support reporting on divergence through the protocol on Northern Ireland? I know that those are probably difficult issues, but it is to understand the process of provisional clearance.

Chloe Smith: Yes, you are quite right to confirm all those questions. Taking them in reverse order, first, will the Cabinet Office be supporting reporting on the protocol? That is not strictly in my portfolio so it is perhaps not for me to answer you. As you know, Lord Frost is now leading on that for the Government and is, indeed, a Cabinet Office Minister and is working extremely closely with the Secretary of State for Northern Ireland to be able to report and be accountable. Broadly, I hope that that suffices as an answer to that question, although it is not something directly in my own portfolio.

Secondly, I do hope to meet the First and Deputy First Ministers soon, although I am conscious that frameworks is hardly the only issue on their opening agenda so I am not suggesting that I need to be the first through the door with this particular set of work. It is an important piece of work, as I think we all agree, so it merits its place in early

consideration of what all four Administrations I hope would want to work together to achieve.

Finally, returning to the point about what provisional clearance means precisely, as I mentioned earlier on, what I am referring to here is an agreement between the Administrations, finalised now, agreed, done between all the Administrations, that portfolio Minister clearance will represent provisional confirmation. This is a pragmatic tweak to a process that had applied before. Where previously there needed to be a further stage where JMC (EN) ministers would put a stamp on it, in all practicality that could be done by correspondence as well as by a meeting. What we are doing here is saying that portfolio-level clearance suffices because that is where the expertise is. What this means for the committee is that this stage is still in advance of resolving the related cross-cutting issues that might be relevant to any given framework and in advance of publishing the frameworks for parliamentary scrutiny.

I am afraid it is a slower answer than you might wish for, but it is from that that I say I am hoping to be able to provide you with frameworks in the autumn rather than straight away, even in the case of those 21 where they have now taken a step forward but not yet fully into the space where they can be shared with you.

Baroness Ritchie of Downpatrick: Lord Chair, I thank the Minister for her response and ask her if she could update us in writing whenever they are ready to be scrutinised. As Baroness Andrews said initially, this is vital for the continuation of our work and so that we can see that pipe stream coming through and know what is coming through. If there was that exchange of information, it would be absolutely vital.

Chloe Smith: I am extremely keen to do that. You do not need to ask me to do that; that is my intention. That will be forthcoming as soon as we can make it happen. That is the key point of today. There is a lot going on now, but as soon as we can resolve those things and make them happen I am very keen to make sure you have them in the committee.

The Chair: Thank you, Minister, and thank you, Lady Ritchie, for raising that question. That is extremely helpful. Talking about how complicated things are, I will pass on now to Lord Foulkes for his question.

Q158 **Lord Foulkes of Cumnock:** Good afternoon, Minister. I think that you were so effective and comprehensive in your initial answer to Baroness Andrews that you have gone a long way to answering my question. You said last time you want as much consistency in language as possible in all the individual frameworks and that to do this you want a standard set of texts for the cross-cutting issues. Did I understand you to say that you had agreement about that with two devolved Ministers in your initial answer?

The Chair: I think that the Minister may have frozen. Can I have some technical help, please?

Chloe Smith: I apologise, I am actually the one with dodgy internet after all. I am sorry, that is the second time I have dropped out, but I am happy to persevere as much as we can.

Lord Foulkes of Cumnock: Did you hear my question, Minister?

Chloe Smith: Not at all, I am afraid.

Lord Foulkes of Cumnock: Okay. What I was saying was that I thought you had actually answered the question I was going to ask in your initial answer to Baroness Andrews. You said previously you wanted consistency of language as much as possible in the individual frameworks and as such that you were going to develop common texts that could be transferred. Did you say in your initial answer that you had agreement with the Welsh and Scottish Governments that this was the way forward?

Chloe Smith: I think what we would be talking about here is common texts that might refer to the cross-cutting issues. Is that what you are driving at?

Lord Foulkes of Cumnock: Yes, the cross-cutting issues, sorry.

Chloe Smith: No problem at all. That might well still be a practical way of being able to make the progress that we all want to see. Certainly, there would be little reason for inconsistent text on issues that cut across multiple frameworks. What I need to be clear with the committee about is that that work is not yet concluded. The thing we are trying to do together, me and my opposite number Ministers, supported by our officials, is to resolve the cross-cutting issues and agree texts that can accurately describe them. That is the work that we are engaged in at the moment.

Lord Foulkes of Cumnock: I think that you said, Minister, earlier on that you hope they would be concluded by the autumn. In your letter you did not mention any particular timescale. What are you meaning by the autumn? Can you be more precise in relation to that?

Chloe Smith: I would love to be more precise, especially considering the way in which government departments use the seasons of the year, but I am afraid I am not able to be more precise because of the very nature of this joint work. Baroness Andrews asked me for my reflections on the programme. You might almost say that the joint nature is both an opportunity and a challenge. It means that we have positive relationships that are producing things that are meaningful, but it also means, naturally, that we have to go at the pace that means that four Administrations can do things together. I think that is sensible. Therefore, I am not able to give you a precise answer.

Lord Foulkes of Cumnock: I get the impression from what you said earlier that with the Welsh Minister and particularly now the Scottish Minister, with Angus Robertson having replaced his predecessor, you are getting some greater co-operation. Is that the case?

Chloe Smith: You may have known Angus Robertson for longer than I have.

Lord Foulkes of Cumnock: I have.

Chloe Smith: I imagine you may well have. Certainly, I had a very good meeting with Angus, which I was very pleased to have, but equally also with Mick Antoniw in the Welsh Government. I think that is representative of the quality of meetings that colleagues are having across government on a number of things. I certainly want that to continue and I am hopeful that we can all put the right amount of energy into getting frameworks delivered.

Lord Foulkes of Cumnock: Good, thank you very much, Minister.

Q159 **Lord Murphy of Torfaen:** Again, a very warm welcome to you, Minister, we are glad to see you.

You have touched a little on this in your introductory answers, but I am going to ask you to reflect on timescales. Do you still expect all frameworks to be submitted for parliamentary scrutiny with enough time for that scrutiny to be completed before the end of 2021?

Chloe Smith: Yes, in short; that is my hope and that is my intention.

Lord Murphy of Torfaen: Thank you very much; could not be clearer.

The Chair: We can just, I am afraid, hold the Minister to that. We may well see you again in the autumn, depending on how progress goes. I will move very swiftly on to Lord Bruce.

Q160 **Lord Bruce of Bennachie:** It is good to see you looking so well, Minister, and it is good to see you once again.

You said in your introductory remarks and you have said consistently throughout that once the process of the common frameworks is complete you expect it effectively to be handled by the individual departments. Will there not be an ongoing oversight or co-ordination or support from the Cabinet Office for that? We as a committee are a little concerned that the process has a sort of dead end, whereas in reality it then has to be operational and other things will impact on it. Will the Cabinet Office continue to have oversight and a supportive role or will it completely butt out and leave it to the departments?

Chloe Smith: It is a very good question and the answer is yes, we do intend to continue having a small central role in addition to departments taking on the majority. That is for reasons of oversight and support along the lines that this committee I think would appreciate. I would emphasise that the majority of the work needs to be owned by departments because that is where the policy expertise is. Frameworks are, as we all know, a particular set of regulations that are notable only because they used to be run by the EU. What they belong with is the policy areas that they are part of in those departments. This is how the UK Government intend to organise this going forward.

I would quite like to put on record alongside this that that is only internal to the UK Government. This is, of course, no comment at all on how other Administrations may choose to do similar. I should think that they are grappling with similar questions themselves. There will also continue to be that joint work between Administrations, supported centrally in our Government as well.

Lord Bruce of Bennachie: Thank you. That is a helpful and encouraging answer. I think that we see the distinction between policy and process, though, and it would be good to see the Cabinet Office continuing to see that the processes are being applied.

As a small supplementary—actually, it is a very big supplementary—we as a committee feel that the process that is being applied, although it has not been tested to destruction through a dispute, nevertheless is very co-operative and constructive and determined to try to get agreement both on co-operation and on divergence. Do you see that as a role model for other disputes outside common frameworks in the future? It seems difficult to see how the Government can have this process for common frameworks and apply a different and, if I may say so, less thorough and less sensitive approach in other areas of dispute. Is there something to be gained from experiencing through common frameworks?

Chloe Smith: I think that there is a lot to be celebrated in the experience of common frameworks and what that can suggest for other areas of public work. I think what we are talking about almost obliquely here is what we would call intergovernmental relations. Yes, there is, of course, a very full process and structure for that and that has been the subject of a review recently, as you know. Therefore, all Administrations are committed to improving the way in which we run our intergovernmental relations.

It certainly will be the case that the Cabinet Office is the home of IGR, if you like. That is a very classic role that the Cabinet Office performs for Her Majesty's Government, so I can certainly assure you that dispute resolution in that slightly wider sense of any subject that may arise between the Administrations that needs to be handled in a structured way within the intergovernmental relations is part of the refreshed structures there and will be very firmly supported from the Cabinet Office.

Lord Bruce of Bennachie: Those were very positive and welcome responses. Thank you very much.

Q161 **Baroness Crawley:** Sorry I took so long to unmute. Good afternoon, Minister. It is very good to see you back with us again.

My question is about the importance of ongoing government reporting of the frameworks programme. When I say "ongoing", we want to see it beyond the implementation of the frameworks themselves. How will you continue reporting on common frameworks as part of your statutory obligation under the European Union (Withdrawal) Act 2018 once common frameworks have all been fully implemented? Presumably, we

will still be under the powers of that Act beyond the implementation of the common frameworks.

The second part of the question is: how will you report on common frameworks once that statutory obligation of the 2018 Act has elapsed? We see it as important. I think you would agree and I think you said earlier on today that you have seen our involvement in the frameworks process as a positive one as far as quality, standards and so on are concerned. We would want to see that continuing and we would want to see the frameworks being accountable to Parliament. Perhaps you have some ideas about that.

Chloe Smith: Thank you very much. I am very glad you have asked that question because it brings together a couple of the strands of what we are working with here.

It is actually a very good story to tell about how much reporting has been consistently done. I think that it is 11 statutory reports so far, and that includes the quarterly ones that are driven by Section 12 of the EU withdrawal Act—that is the 2018 power—and the annual reports that we have provided. I should say that we expect to provide another annual report this autumn. That will be the fourth iteration of the frameworks analysis. I expect that iteration of the analysis to be probably the final one in that series, and that is in line with the move that I am describing here from a programme that is fully driven by the Cabinet Office to one that is more anchored in departments. The reporting driven by the 2018 Act will, of course, continue for as long as that section remains in force.

You are asking then a hypothetical question, if you like, for the longer term after that. I do not think that I am in a position to confirm that answer for you, other than, as I say, with the general point that for as long as that section remains in force naturally we will fulfil that statutory duty. I would point to the way that I expect departments to take up the baton here. They will want to be accountable, correctly, and report properly to their Select Committees, to Parliament, in the whole range of ways that departments do and must account to Parliament. That is where I think you would look for ongoing reporting far into the future. Whether departments think that it is proportionate to report on frameworks in a different way to all the rest of their policy will be a question for the future and may well be something that this committee would reflect on in due course.

Baroness Crawley: Thank you very much. That is very helpful. You mentioned cross-cutting issues earlier and trends in common frameworks. This committee perhaps feels that there is a need for an overview of how cross-cutting issues are affecting all frameworks, which cannot really be collected in individual government departments but can be looked at through Cabinet, as Lord Bruce was suggesting. I think it is important for you to know that that is how we feel about the cross-cutting part of the position here.

If there is going to be an end to reporting at some stage, how will we

know, for instance, if you have used the Section 12 competences, which, of course, allow you to temporarily limit devolved competence? How will we know you have used that if you are not obligated to report on it any more after the common frameworks have been implemented?

Chloe Smith: There is, thankfully, a fairly simple technical answer in the legislation, which is that that is the power that would lapse.

Baroness Crawley: It would lapse?

Chloe Smith: That is the power we are talking about—whether it is in force or not. The reporting requirement goes on, as I understand it, a little longer than that, but essentially those powers come to a natural end, as dictated by that legislation, and that has been the case all along.

In answer to the first part of your point about the nature of being able to keep reporting on the cross-cutting issues, there is something else important to say here, which is, “Let’s not lose sight of how big those cross-cutting issues might be perceived to be”. They are meaty issues of the day: the way that we have an internal market operating across the UK, the way that we do international relations, the way that we implement our trade and co-operation agreement, the way that we support the Northern Ireland protocol. These are major issues, there is no hiding from that. Although I believe that they are capable of resolution with the right work, they will naturally be things that Parliament will be able to scrutinise across the piece and they will naturally be things that I imagine will be discussed all the way up to Cabinet level in UK Government terms because they are very important. I am sure that that is also true in so far as they reach into the devolved Administrations’ interests as well.

Baroness Crawley: Thank you very much.

The Chair: Thank you very much; very important exchanges there.

Q162 **Lord Caine:** Minister, you are extremely welcome. Unsurprisingly, I will take you back to Northern Ireland and invite you to update the committee and provide a little more detail on the work that the Cabinet Office is doing in mapping current EU law and forthcoming EU legislation and its interaction with the Northern Ireland protocol. As a supplementary, arising out of that process, have you identified at this stage any areas from the mapping exercise where you anticipate significant divergence between Northern Ireland and Great Britain?

Chloe Smith: I will begin to answer on this and then will be very happy to bring Bruno in if we need to on the detail that officials have been working on.

The first thing to say is that the EU law that will apply through the protocol is a known quantity. What we are doing here is analysing where the protocol and common frameworks might operate in the same space. I am not so sure that would throw up surprises, if you like, which was perhaps the premise of your second question.

We have finished the mapping of forthcoming EU legislation for the first quarter of this year—EU legislation that relates to the Northern Ireland protocol, that is—and the next step will be to consult other government departments inside the UK Government on the implications of that legislation for regulatory divergence that might specifically relate to frameworks areas. Mapping for the second quarter is under way.

In addition to this, other government departments are also doing some additional analysis in their own policy areas on EU law impacts. You have a further update in my letter of 29 June to the committee on the way in which we are continuing to work with the EU to get the JCWG processes up and running, so we will be able to give you, I hope, further updates on that in due course.

Bruno, would you like to add anything on what officials have found in doing that work?

Bruno Williams: Yes, thank you, Minister. I am very happy to come in here.

To update you, Lord Caine, on the work that has been going on at official level, some of this was alluded to in the recent letter from the Minister to the committee, but on operational monitoring there are broadly two strands to this work. It is worth pointing out that this is all happening on a four-Administrations basis. The first of those is what I would refer to as active testing, which we have done for the nutrition framework. Clearly, the nutrition framework does not in its current form refer directly to the protocol, given that this framework was drafted before the protocol came into force, but I understand that DHSC officials are very willing to update the framework to reflect the protocol.

We have carried out some testing of that framework in terms of using both real-life and hypothetical examples around how divergence might occur based on EU regulations. So far, the results of that exercise have been that any divergence arising from the protocol could be accommodated by the framework. To your question, Lord Caine, about whether we have identified any areas of significant or perhaps problematic divergence, the answer is not yet.

The second element of the operational monitoring work that I would draw attention to is what I would call more passively observing how the discussions function among framework officials; for instance, talking to the Defra animal health and welfare team and their opposite numbers in the devolved Administrations. We are planning to do quite a lot of these exercises over the coming weeks to get a feel for how the impact of the protocol would be taken forward in practical terms. It is worth emphasising the point that so far nothing that we have seen leads us to believe that divergence arising from the protocol could not be managed through the common frameworks.

Lord Caine: That last answer is, shall I say, moderately encouraging. Thank you very much for those answers. In the interests of time, there

are no further questions from me.

Q163 Baroness Redfern: Minister, we are so pleased to see you again and thank you for coming. Bruno, thank you also.

When do the Government expect to complete their guidance on the format of future reviews of common frameworks? I know you said earlier “as soon as possible”, but I wondered whether you could add anything further to that. The second part of my question is: will justifications be published together with any future amended frameworks, and to what extent will this practice be followed by other departments?

Chloe Smith: There are maybe two parts to the answer here. One is the commitment I have already given to the committee to return to the question of justifications for future action or things that might or might not need a type of framework. We have said that that will be included in the publication of the frameworks analysis in September of this year. That remains unchanged and I look forward to being able to share that with you.

Separate to that, then, is the question of guidance that we in the Cabinet Office would be able to provide to departments on a slightly wider footing about the work that they will then do to uphold frameworks and review them in the future. First of all, we are currently working with counterparts again in the devolved Administrations to produce that guidance. That has to cover the review and amendment mechanism but also other governance and oversight of frameworks, including as they relate to the IGR structures that I was referring to with Lord Bruce earlier on.

You then asked about when that guidance will be available, and here is where I need to link it back to the broader point that I am putting to the committee this afternoon. Because of the nature of getting all the frameworks agreed jointly and through the challenges of the cross-cutting issues, I am not able to give you a clear date for when the guidance would be relevant and when it would be produced. The point is that the guidance would have to in its turn take account of the cross-cutting issues. Therefore, I do not think that I would be likely to be able to give you an insight into that guidance until after those are finalised.

As I say, I have not been able to give you a date for when I expect that to be. But, looking at the macro dates of the programme, as I have said already, it is our intention to conclude the programme by the end of 2021—that is a shared intention across the Administrations—albeit that there will be, no doubt, a short period of time into 2022 where things are still being implemented. Essentially, the guidance would, I think, become valid at that point, so that, I hope, would be—sorry for using this word—the backstop to when we will be able to give you sight of it.

Baroness Redfern: Are you happy that a more collaborative approach is working now better than before?

Chloe Smith: Yes, I am. Certainly, a collaborative approach is necessary and is the hallmark of this programme, as we have said throughout. Yes,

I am content with how that is working and I am pleased to see the energy that my colleagues in the devolved Administrations are bringing to this—the new Ministers in posts. Stepping up that engagement and stepping up that work to get this finished is the order of the day.

Baroness Redfern: That is good news. Thank you.

The Chair: Thank you. Our last question this afternoon, Minister, is from Lord Thomas.

Q164 **Lord Thomas of Cwmgiedd:** Good afternoon, Minister. It is good to see you again and hear such an encouraging amount of good news.

I want to ask you questions relating to structure and complexity. We have looked at the governance structure and the organisational structure. One of the things that has struck us is that there seemed to be an awful lot of people who are employed in the governance and in the operation. Are you able to give us now any idea of the numbers involved, or to write to us with that information?

Chloe Smith: I am very happy to answer that question as well as we can now. I will ask Bruno to come on to it, because this is his team.

Bruno Williams: As the Minister has said, this relates to my team particularly but also to our counterparts across government. I will attempt to give you some numbers, and these are a bit approximate, so I am happy to follow up if it is helpful with some more precise numbers.

The first thing to say is that, with the exception of my division in the Cabinet Office, the other teams that we interact with do frameworks as part of their day job—but not the only part, so obviously the answers need to be seen in that context.

In general, there are three broad categories of officials across the UK Government and across the DAs who are working on frameworks. First of all, you have the division in the Cabinet Office that I head up, which is all about co-ordinating the common frameworks programme across Whitehall and between UKG and the devolved Administrations. There are 17 of us. I am the deputy director for that division. While our devolved Administration counterparts do other things beyond just common frameworks, across the central teams of the devolved Administrations we think there are around 11 officials who are working on frameworks co-ordination. That is the first category.

The second category is the teams within UKG that work on devolution within departments. Obviously, their roles also go beyond frameworks. They co-ordinate all sorts of devolution-related activities within their departments, but this also includes officials who perhaps do not actually own any frameworks within their department but have an interest in some of the wider considerations and some of the cross-cutting issues. We would include territorial officers. We would include the Department for International Trade and the FCDO. The number of people involved directly in frameworks varies between roughly, I would say, one and three per department.

Then you have the third category, which is effectively the policy leads across UKG and the devolved Administrations, who are really in charge of the nuts and bolts of the framework, if you like. They are the ones who are responsible for the specific policy areas covered by those frameworks, so frameworks are part of their day job but not the only part.

All told, a rough estimate would be that at UKG level we are probably talking upwards of 150 officials who have an interest and involvement in the frameworks programme, although that is not always quite as direct as for some. In terms of numbers in the devolved Administrations, I would put that at between 100 and 150 across all three of the devolved Administrations. That is a more tenuous number, so if it is of interest to the committee I am very happy to look at some more exact figures there.

Lord Thomas of Cwmgiedd: I think that it would be very useful because, quite understandably, you have had to point out that various people only do this part-time. Would it be possible for us to have a clearer estimation of the numbers involved and maybe to get the views of the devolved Administrations on the manpower requirements? Presumably, one can estimate, saying, "This takes a third of someone's job or a quarter of someone's job", so one would have a much clearer picture of the total man hours involved, if that is possible.

Bruno Williams: Yes, absolutely.

Lord Thomas of Cwmgiedd: One is always conscious in asking a question of this kind that it might be burdensome, and the last thing one wants to do is to burden you further. But, if you could give us a more precise figure, it would be very helpful.

Bruno Williams: I am sure we can provide that. There is probably also a distinction to be drawn between the officials who are working on what we call the active frameworks—that is, in 32 areas where there is a framework in development—and the larger set of officials who are working on common framework areas, in that they will have relationships with the devolved Administrations but those relationships will not be governed by a framework per se because no framework is needed. We propose to focus on the former category, just to put some parameters around it, if that is okay.

Lord Thomas of Cwmgiedd: I think that it is probably better for us to take that at first. I dare not say that that is all we need; I would be usurping the Chair's authority—but she no doubt can come back to you on that point.

Obviously, this is quite a number of people, but administering a governmental system of our kind is quite complicated. Some of the organograms we have seen are complicated. Minister, is there anything that can be done that can simplify this as it goes forward and tries to make it a more slimmed-down and effective operation?

Chloe Smith: Certainly, I think so. It is that that I have been touching on when I have been talking about wanting departments to own

frameworks in the future and for there to be, in your words, a slimmed-down function centrally. This is the point I have been making. The policy contained within frameworks has a natural home alongside the rest of the policy in the relevant department, and the functions that will need to be done centrally will decrease over time, because it is right that that policy is reunited with its like kind in departments.

That is what we in the UK Government intend to do to achieve an effective structure around frameworks that will properly deliver for those who are regulated by those policy areas and that will continue to maintain the right kind of good working relationships with our friends and partners across the United Kingdom that has been the hallmark of the programme. Those are my ongoing goals in looking at any structure for the future.

As I have said before, I cannot speak for colleagues in the devolved Administrations as to how they would wish to organise things on their side because that is quite properly for them to comment on, but that is how we think it can best be done to discharge the full goals of the programme and put all this good work on to the right basis looking ahead.

Lord Thomas of Cwmgiedd: Thank you very much, Minister.

The Chair: Thank you, Minister, and thank you, Bruno. What always impresses me about our sessions with you is the frankness of the exchanges and the quality and the confidence of the conversation we have. You make it very clear that there is a huge amount of hard work going on and a huge dynamic behind this whole operation, which really, of course, spreads across the whole of the UK and makes it a very complex operation, where clarity and trust are very important.

We have learned a lot, as we always do, this afternoon. Of course, it does raise questions about the timetable, which is of paramount concern to us, and any future clarity is important. It is very important that we do stay in close touch with each other now, because I think that we have the basis for that exchange.

It is equally important, I think, that we think about the continuing role of parliamentary scrutiny and the continuing role, frankly, of the committee. We have a unique narrative and a unique perspective on the common frameworks, not least thanks to the arrangement and collaboration we have with you and with the DAs. I am very committed, and the committee is committed, to being itself as positive a force as possible in this process as part of the national conversation. If I were to ask you and Bruno to put some pressure on certain departments to possibly speed up and show some sense of urgency, I know that we would get a positive response, and perhaps we may have to do that in due course.

For the time being, I want to say thank you again for the time you commit, for the clarity with which you respond, and for the depth and the detail that you provide. You are a very able Minister, may I say, to be able to respond like that, and the committee very much appreciates it.

We appreciate the work of the team that is led by Bruno. These are not easy issues and the political context is very wide, so it is very important that we keep up these conversations with you.

Thank you so much, and I wish you very good luck in the rest of the year. We will probably see you again, but in the meantime I can formally declare that this particular session of this committee is now finished. Thank you very much.