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Baroness Andrews
Chair, Lords Common Frameworks Scrutiny
Committee
House of Lords
SW1A 0PW

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20 October 2020

Dear Baroness Andrews,

Thank you for your letter dated 14 October 2020, regarding parliamentary scrutiny of UK Common Frameworks. I was pleased to hear of the recent appointment of the House of Lords Common Frameworks Scrutiny Committee and I look forward to working with you over the coming months.

Thank you for the invitation to give evidence to the committee on 3rd November. I am pleased to accept your invitation, and I look forward to discussing UK Common Frameworks with committee members in more detail. I understand committee officials have agreed to share possible questions in advance, and would very much welcome this to ensure as productive a session as possible.

The UK Common Frameworks programme has been designed to coordinate work conducted across a wide range of departments in the UK Government, Scottish Government, Welsh Government, and the Northern Ireland Executive, as well as all committees which may take an interest in the programme from the UK Parliament, Scottish Parliament, Senedd Cymru and the Northern Ireland Assembly. Due to the wide array of interest in the programme it has been a particularly complicated task to ensure a consistent approach is taken to parliamentary engagement. I welcome your feedback on the existing process for parliamentary scrutiny of UK Common Frameworks.

Many of your requests relate to the framework summary, which departments have offered to share with committees prior to the provisional framework being shared for parliamentary scrutiny. I would like to highlight that the purpose of sharing a framework summary with committees is to enable committees to prepare for the upcoming scrutiny of the provisional framework, and that it is not intended as a mechanism to allow for early scrutiny of the framework. I have advised policy departments to share their framework summaries one month prior to the expected scrutiny start date to allow committees sufficient time to prepare. At this stage in its development, the framework may be subject to amendments and will not have been cleared by either portfolio or JMC(EN) Ministers. Further to your request and following a

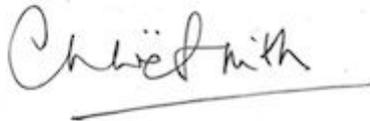
discussion between Lord True and Lord Hope in the context of the UK Internal Market Bill, I have attached a note on dispute resolution that applies to all UK Common Frameworks.

In your letter you mention that it would be helpful to receive more information regarding the stakeholder engagement that has taken place, and details on all related legislation. As sector specific stakeholder engagement will have been conducted prior to parliamentary scrutiny, I recognise that it would be useful for committees to understand the extent of this engagement. I also agree that it would be helpful to highlight all related legislation in the summary and/or accompanying cover note, and will ensure that both of these points are clarified in future framework summaries.

I appreciate that committees may have questions for policy departments after receiving framework summaries. Whilst I understand that it would be helpful for you to receive answers to all questions before receiving the provisional framework, I recognise there may be additional policy development or Ministerial approval outstanding before policy teams are able to answer all questions. Provisional frameworks will be shared with the committee after content has been approved by portfolio Ministers across all governments, and JMC(EN) Ministers.

As you may be aware, Lord True led a briefing session on the UK Internal Market Bill with Lord Hope on 14 October. In light of Lord Hope's suggestion that the committee would benefit from further details on the UK Common Frameworks dispute resolution process and given a similar request in your letter, I am attaching a briefing note to this letter, and I am copying this letter to Lord Hope and Lord True.

Yours ever,

A handwritten signature in black ink, reading "Chloe Smith", with a horizontal line underneath it.

Chloe Smith MP
Minister of State for the Constitution and Devolution

Common Frameworks: Dispute Resolution and Avoidance Mechanism

To allow frameworks to function well in the long-term, it is a requirement that each common framework contains a robust mechanism for making decisions and for resolving any issues that may arise between the parties.

The non-legislative agreements that comprise part of the framework include principles for working together which encourage transparency and information sharing, with a view to avoiding the circumstances in which a dispute may arise in the first place.

The UKG and DA officials coordinating the common frameworks programme have produced extensive joint guidance for policy teams on how to design the governance of a framework. Some of the specific mechanisms in frameworks have been stress-tested in hypothetical scenarios, and performed well. In any event, dispute resolution mechanisms in all frameworks are a central focus of the thorough joint UKG/DA review and assessment process that every framework undergoes prior to being submitted to JMC(EN) for provisional clearance.

The dispute resolution mechanisms in frameworks have been designed without prejudice to the outcomes of the Intergovernmental Relations (IGR) Review, and can if necessary be adjusted to refer to the future IGR dispute resolution mechanism once that review has concluded, using the review and amendment mechanism contained in each framework.

Since agreeing the governance guidance, officials jointly agreed standard text for dispute resolution mechanisms which policy teams have been encouraged to use in the development of their framework where necessary or expedient.

UKG and the DAs have agreed several principles that shape the dispute resolution mechanisms in common frameworks. These include:

- That disagreements should be resolved at the lowest possible level;
- That this mechanism should be utilised only when genuine agreement cannot be reached and when policy divergence would impact negatively on the ability to meet the common frameworks principles;
- That further information may be sought at each stage of a dispute, including from third parties where agreed, although third parties will never have an arbitration role;
- That when a disagreement is raised, consideration will be given to its urgency which will guide timescales for escalation through the dispute resolution mechanism (See illustration below).

