



# HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

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20 October 2020

Edward Argar MP  
Minister for Health  
Department of Health and Social Care  
39 Victoria Street  
London SW1H 0EU

Dear Edward,

## **Nutrition Labelling, Composition and Standards (NLCS) framework**

Thank you for the Nutrition Labelling, Composition and Standards (NLCS) Provisional Framework, which was considered by the Common Frameworks Scrutiny Committee on 20 October.

### *Parliamentary scrutiny*

We consider parliamentary scrutiny to be an essential part of the common frameworks process. In a recent letter to Chloe Smith MP, the minister responsible for the common frameworks programme in the UK Government, we underlined the importance of receiving answers to any questions on Framework Summaries *before* receiving the Provisional Framework.<sup>1</sup> We were therefore very disappointed by your response on 30 June to Lord McFall's questions on the NLCS Framework Summary, in which you noted that "responses to your queries will become clear once the common framework and concordat have been supplied".

While your letter said that you had "requested that my officials endeavour to provide written responses to Lord McFall's questions alongside the framework and concordat once they are submitted for scrutiny", these were only provided four days into the formal 21 sitting day scrutiny period. This is unacceptable and has further limited our ability to give this Provisional Framework the effective parliamentary scrutiny that it deserves.

### *The status of the framework*

The Provisional Framework consists of a common framework and an underpinning concordat. What will the status of these documents be and to what extent are they dependent on each other in order to be operational? What is the rationale for having these as separate documents and what determines whether something is covered by the framework or the concordat?

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<sup>1</sup> [Letter from Baroness Andrews to Chloe Smith MP, dated 14 October 2020](#)

### *Northern Ireland*

It appears that the framework and concordat have not been updated since January 2020, given the repeated references to “the absence of the Northern Ireland Executive”, even though it was provisionally agreed by ministers at the JMC(EN) in September. As there is a commitment to review the framework upon the establishment of the Northern Ireland Executive, has such a review taken place since January 2020? To what extent has the Northern Ireland provided further input on the Provisional Framework since the establishment of the Northern Ireland Executive, and do you expect any changes to be made in light of this?

We note that there is no reference to the Northern Ireland Protocol in the Provisional Framework, despite nutrition rules falling within its scope. In response to Lord McFall’s questions on this issue, your officials explain that that the direct application of EU law in Northern Ireland will not prevent its continued participation in the framework or involvement in risk management decisions that will apply in the rest of the UK. While Northern Ireland officials and ministers will fully participate in the framework, do you anticipate any issues related to policy divergence between Northern Ireland and the rest of the UK at the end of the transition period?

### *The Internal Market Bill*

The Provisional Framework states that all four governments agree that a common framework approach is highly desirable across UK to enable the functioning of the UK internal market. However, the sections on how the framework and concordat “will link into any future arrangements to enable the functioning of the UK Internal Market” are still subject to discussions between the Scottish Government and Cabinet Office officials. What are the specific areas of disagreement and how do you envisage that this common framework will interact with or “link into” any future arrangements, such as the Internal Market Bill?

### *International agreements*

The section on international agreements is also still under discussion. The current text notes that “as foreign policy issues are reserved to the UK government, DHSC retains overall policy responsibility for the formulation of UK policy”, but that “DHSC will involve the devolved administrations fully in discussions”. How do you envisage involving the devolved administrations in these discussions? To what extent could a decision be taken, through an international agreement, that affects the powers of the devolved administrations in these areas without their consent?

### *Future reviews*

Given that several parts of the Provisional Framework seem to be either out of date or unfinished, when do you expect the final document to be agreed and how do you intend to inform Parliament of this? Are all four administrations content with implementing an unfinished framework and are there any risks associated with only operating under a Working Level Agreement until the framework is formally in place?

The Provisional Framework states that there will be a formal review six months, one year, and three years after implementation. However, there appears to be a misalignment between the subsequent reviews of the framework itself (“thereafter at three-yearly intervals”) and the underpinning concordat (“thereafter at five-year intervals”). Is this a deliberate approach and, if so, what are the merits of reviewing these closely related documents at different points in the future?

We note that there is no mention of Parliament being part of the review process. However, an annual report on the activities of the NLCS Policy Group, including on the levels of divergence and the extent to which the dispute resolution process has been utilised, will be submitted to Ministers and may be used to inform any reviews. Is there a reason why this report could not be simultaneously provided to the UK Parliament and devolved legislatures? Do you envisage any other opportunities for parliamentary involvement in the review of this common framework?

We are committed to working within the Government’s own timetable and therefore look forward to receiving your response within five working days.

Yours sincerely,

Baroness Andrews  
Chair of the Common Frameworks Scrutiny Committee