



Cabinet Office

Government Response to the House of Lords Common Frameworks Scrutiny Committee report: ‘Common Frameworks: an unfulfilled opportunity?’



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1. Foreword

1. Since 2017, with the return of powers after the United Kingdom left the European Union, the UK Government, Scottish Government, Welsh Government and Northern Ireland Executive have worked together to ensure the whole country can make the most of those renewed opportunities.
2. Common Frameworks are agreements supported by the UK Government and all devolved governments in critical policy areas such as agriculture and the environment. Through them we can drive growth, support local communities and make a tangible difference to people's lives. And as we focus on our plan for the UK that cuts taxes, grows the economy, boosts productivity and deals with the energy crisis, we also expect Frameworks to play a crucial role in unleashing the benefits from reforming retained EU law.
3. As Minister for Intergovernmental Relations, I welcome the Committee's report and invaluable scrutiny of the Common Frameworks programme. It is through this vital work that the programme will evolve and embed, and I am delighted to be able to accept the vast majority of the recommendations.
4. The work that goes into developing Common Frameworks, and the agreements that we reach, help to foster an environment of mutual respect and collaboration. We now have constructive ways to tackle and resolve many policy issues as they emerge. The programme is part of the crucial ecosystem that supports overall UK governance, and dovetails with the enhanced approach to intergovernmental working published in January.
5. While progress has been hampered by a number of external factors, almost all the Frameworks are now in operation. There is always more to do but I welcome the advances we have made so far on behalf of people and businesses across the UK.
6. As we look ahead to complete our post-EU exit reforms, via the *Retained EU Law (Revocation and Reform) Bill*, our work together will become only more important. I look forward to making further headway, for the good of the citizens of the UK.

The Rt. Hon Nadhim Zahawi MP

Chancellor of the Duchy of Lancaster and Minister for Intergovernmental Relations

2. Executive Summary

7. The Government welcomes the Committee's report and is grateful for the time that the Committee invests in scrutinising the Common Frameworks programme. The Government agrees with the Committee's overarching finding that the Common Frameworks programme is an important part of how the UK government and the devolved governments work together to deliver for people and communities across the UK. The Government also agrees that the Common Frameworks programme needs to be properly embedded to realise its full potential and for individual Frameworks to succeed as consensus-based agreements.
8. The Government welcomes the recommendations made by the Committee. The Committee has raised 44 specific points, of which 22 are formal recommendations, covering six broad thematic areas (strategy; the UK Internal Market Act 2020 (UKIM Act); regulatory divergence and Framework operation; Cabinet Office-specific recommendations; quality assurance, and transparency).
9. The Government has accepted thirteen of these recommendations, partially accepted or agreed in principle to five, and not accepted three. One has been passed to the Office for the Internal Market:
 - The Government recognises that the Common Frameworks principles agreed in 2017 at the Joint Ministerial Committee (EU Negotiations) are at the heart of the programme, and appreciates the consideration the Committee has given to this topic. The Government has accepted or agreed in principle with most of the Committee's recommendations concerning the Joint Ministerial Committee principles.
 - The Committee has noted the policy developments that have taken place over the period of the programme's progress towards full implementation of the 32 active Common Frameworks. The Committee rightly notes the UKIM Act has been especially significant. Beyond the single recommendation for the independent Office for the Internal Market, the Government is pleased to accept or partially accept all of the Committee's UKIM Act-related recommendations.
 - Similarly, the Government welcomed the Committee's findings on how Frameworks should consider key aspects of regulatory divergence (most notably concerning the Northern Ireland Protocol) and how this impacts on the operation of Frameworks. These are very useful recommendations at a time when regulatory divergence is being discussed in relation to the Retained EU Law (REUL) Bill. When implemented these recommendations will have a positive impact on the operation of Frameworks and the Government is therefore pleased to accept or partially accept each of these recommendations.
 - The Government is also pleased to accept both of the Committee's recommendations about the role of the Cabinet Office, one of which is already

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being implemented. These recommendations rightly identify the Cabinet Office as the ideal locus for coordination of the programme from the centre of government. Whilst the role of the Cabinet Office is central to coordinating the programme, it is not unbounded - individual departments in the UK Government and devolved governments retain full ownership of the Frameworks under their purview, and therefore ultimate responsibility for their content. That being said, the Government considers the Committee's practical recommendations in relation to drafting and working groups to be very valuable and accepts them without qualification.

- The Government is committed to the transparency of the Common Frameworks programme and has also accepted the Committee's three transparency recommendations without qualification.

10. The Government will work to deliver these recommendations - including where appropriate with the devolved governments - in order to strengthen the Common Frameworks programme. The Government again thanks the Committee for its efforts in scrutinising the programme.

3. Response to Strategic Recommendations

Recommendation: *We recommend that the four administrations should review the 2017 Communiqué after all provisional frameworks have been finalised. It should be updated to reflect more accurately the full nature of the Common Frameworks programme and their ambitions for future intergovernmental cooperation. Depending on how successfully Common Frameworks operate in their current form, this may include placing greater emphasis on agreeing joint policy direction. (Paragraph 32).*

11. The Government agrees with this recommendation and the Government agrees to review the Communiqué post-implementation should all four governments agree. The Government agrees that much has changed since the JMC Principles were set out in the Communiqué of October 2017. In January this year, the Government published new ways of intergovernmental working and is now focused on embedding Common Frameworks to ensure their effective operation in the future.

Recommendation: *We recommend that all provisional frameworks are reviewed before they are finalised to ensure that they align with the JMC Principles. The Cabinet Office must ensure that all departments make an active effort in their drafting of frameworks to place sufficient focus and importance on the JMC Principles. (Paragraph 40).*

12. The Government accepts this recommendation. All Common Frameworks that have been provisionally confirmed to date have been reviewed prior to provisional confirmation and publication for scrutiny. They are also reviewed prior to final confirmation. Confirming that the JMC Principles have been satisfied is central to these reviews. Whilst Frameworks generally do reference the JMC Principles in setting out their purpose, the Government agrees that this could be done more explicitly and will amend review processes to include a specific question on this in the Phase 4 review.

Recommendation: *We recommend that a solution be found to publish and finalise the outstanding frameworks while there is no properly functioning Northern Ireland Executive. All resources should be deployed within the Government to ensure this happens as a matter of urgency. (Paragraph 143).*

13. The Government does not accept this recommendation. The Government recognises that final implementation of Common Frameworks is not possible without a Northern Ireland Executive in place. Furthermore, scrutiny cannot be completed without the involvement of the Northern Ireland Assembly. Collectively, this means that finalising Frameworks without an Northern Ireland Executive is not possible. However, in the absence of an NI Executive, the Government will work with Northern Ireland Civil Service officials to explore options for official level engagement, based on precedent. Prior to the restoration of the Northern Ireland Executive in January 2021, those officials had contributed to the Common Frameworks programme on a factual and analytical basis.
14. As it stands, 29 frameworks are provisionally cleared and operational. Furthermore one framework is fully implemented. All of these continue to function despite the absence of a Northern Ireland Executive. It is therefore possible for Frameworks to

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carry out the vast majority of their functions, notwithstanding that some changes will take place following legislature scrutiny.

15. The Government considers that utilising the provisionally cleared but nevertheless operational Frameworks (together with the one fully cleared Framework, namely Hazardous Substances Planning) in the medium term to be preferable to proceeding to final confirmation without Northern Ireland Executive agreement.

Recommendation: *We recommend that the Frameworks Analysis Report is updated to reference the JMC Principles when providing justifications for why certain areas have been designated as 'no Framework required'. (Paragraph 171).*

16. The Government does not accept this recommendation. Firstly, the Principles do not explicitly set out conditions under which Common Frameworks are not required, they do not define where a Framework is 'necessary'.
17. The approach taken in the Frameworks analysis 2021 was that Frameworks are not necessary where: existing ways of working or levels of engagement would make Frameworks redundant; where the likelihood of policy divergence is low, and where the impact of unmanaged divergence is low. This was jointly agreed between UKG and the devolved governments, however the analysis remains under regular review and the decision not to have a Framework in any of these areas can be revisited at any point any government considers it necessary to do so.

4. Response to UKIM Recommendations

Recommendation: *We recommend that the Office for the Internal Market makes clear in its statutory reports exactly how in practice it takes into account devolved policy autonomy when advising on, and assessing, the impact of policy divergence agreed through Common Frameworks on the UK internal market. (Paragraph 58).*

18. This is a matter for the Office for the Internal Market which operates independently to advise the Government and devolved governments.

Recommendation: *We recommend that all relevant frameworks are updated to include text referencing the exclusions process. (Paragraph 70).*

19. The Government accepts this recommendation in principle. Throughout the development of Common Frameworks, the devolved governments have expressed that it is preferable in their view for the Common Frameworks to be referred to in the already published process for agreeing exclusions, rather than for the process to be articulated in the Frameworks documents themselves. However the Government will further explore this position with the devolved governments following scrutiny.

Recommendation: *We also recommend that the UK Government ensures the process adheres to the guidance published in December 2021, operates efficiently, and in full cooperation with the devolved administrations. (Paragraph 70).*

20. The Government accepts this recommendation and is committed to following the jointly developed, four government process for considering UKIM Act exclusions in Common Framework areas that was agreed and published in December 2021. The first exclusion in respect of certain single use plastic items was given effect by a statutory instrument introduced in July 2022 which came into force in August. This followed a request from the Scottish Government through the Resources and Waste Common Framework to ensure legislation to ban these items passed by the Scottish Parliament is as effective as possible

21. This was the first use of the process and the Government will build on this experience to ensure it operates efficiently and effectively.

5. Response to Regulatory Divergence and Frameworks operation Recommendations

Recommendation: *We recommend that the UK Government considers how legislation it brings forward might conflict with relevant Common Frameworks, impede their successful operation, and affect the health of the Union. Decisions made between the four administrations via a Common Framework should take priority in areas where the Subsidy Control Act is relevant. (Paragraph 80).*

22. The Government partially agrees with this recommendation. A core purpose of Common Frameworks is to facilitate intergovernmental discussion and intergovernmental working including where legislation put forward from any government impacts another government. The Government will explore how to use current mechanisms in order to best take this forward and therefore accepts the first part of this recommendation.
23. The Retained EU Law (Revocation and Reform) Bill, insofar as it introduces a date for the sunset of retained EU law (REUL), will impact on most if not all of the Common Frameworks. The UK Government has committed to the proper use of Common Frameworks and will not seek to make changes to REUL falling within them without following the ministerially-agreed processes in each Framework.
24. Whilst the UKIM Act has clarified that subsidy control is reserved, and the Subsidy Control Act itself sets out the UK's subsidy control regime, the Government agrees that insofar as decisions being made under the subsidy control regime fall under Common Frameworks, Frameworks should be used appropriately, just as they could be used to discuss other relevant policy developments.

Recommendation: *We recommend that, as part of the regular reviews on the ongoing functioning of frameworks, exercises are carried out on all frameworks that interact with the Protocol in order to assess their ability to cope with divergence. The results of these exercises should be published in planned regular updates on the ongoing functioning of frameworks. (Paragraph 103).*

25. The Government agrees in principle with this recommendation, and it is reasonable to expect that the impact of the Protocol on the functioning of Common Frameworks will be covered in existing reporting to legislatures.
26. BEIS has confirmed that all commitments required for the operation of the Protocol contained in retained EU law will be retained, along with those for other international obligations.

Recommendation: *We recommend that all Common Frameworks that intersect with the Protocol are updated to ensure frequent information sharing between parties to the framework on forthcoming EU legislation. We recommend that planned regular updates on the ongoing functioning of frameworks should include updates on this monitoring work. (Paragraph 112).*

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27. The Government does not accept this recommendation. The Government agrees that ensuring frequent information sharing between Framework parties on forthcoming EU legislation that would be applied via the Northern Ireland Protocol would be useful. The Government does not consider it would be necessary to update Framework documents to reflect this, and is best taken forward through the central team's future work to ensure best practice across the programme. The Joint Consultative Working Group has a core function of sharing this information between governments, and the Government agrees that it would be valuable for this to be shared with Framework parties as soon as possible. The Government will explore with the devolved governments the degree that it is feasible to reflect new EU legislation that affects a Common Framework in the planned reporting work.

Recommendation: *We recommend that the Government carefully considers how the Northern Ireland Protocol Bill may impact the operability of Common Frameworks. (Paragraph 115).*

28. The Government accepts this recommendation. This will be especially important given the establishment of a dual regulatory regime in Northern Ireland, if it took place, would likely mean that Northern Ireland would have more flexibility to agree a common approach in certain areas, including through Common Frameworks.

Recommendation: *We strongly recommend that the Irish Government is consulted on all relevant frameworks that have cross border implications on the island of Ireland. As part of planned regular updates on the ongoing functioning of frameworks, updates should be included on engagement with the Irish Government. (Paragraph 124).*

29. The Government partially accepts this recommendation. Common Frameworks are, by definition, agreements between devolved governments and the UK Government, and third countries are not parties to them, though Frameworks are required to recognise the linkages between Ireland and Northern Ireland - including those due to the Belfast Agreement, the Common Travel Area, the shared land border, Single Electricity Market and Single Epidemiological Unit. The Government appreciates the Committee is not suggesting that Ireland should be a party to a Common Framework, however a commitment on UKG to consult with Ireland on relevant Frameworks would blur this distinction and the Government cannot accept the first part of this recommendation.

30. This does not preclude engagement with the Irish government which may be useful to inform policy discussions within the operation of established Frameworks, and parties to Common Frameworks are entitled to do this where appropriate - as happened regarding the public health Common Framework. Engagement processes between the Northern Ireland Executive and the Irish Government on matters of interest including policy areas covered by Common Frameworks pre-date Common Frameworks and are established - it is not necessary for them to be replicated within the Frameworks themselves.

31. Where relevant engagement with Ireland does take place within Common Frameworks, the Government agrees that this can and should be reflected in the

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planned reporting and therefore the Government accepts the second part of the recommendation.

6. Response to Cabinet Office Recommendations

Recommendation: *We recommend that the Cabinet Office should hold sole responsibility for the central coordination of Common Frameworks in order to maintain profile, credibility, and coherence across Government. (Paragraph 133).*

32. The Government accepts this recommendation, which is in progress. The Government retains a central team in the Cabinet Office working exclusively on Common Frameworks which provide the central coordination and direction for the programme. They are part of a larger team that covers intergovernmental relations, enshrining their profile and providing a key link with the overall approach to intergovernmental working.

Recommendation: *We recommend that the size of the central team in the Cabinet Office should be kept under review. Any future needs required for the successful delivery of the programme should be adequately resourced. (Paragraph 134).*

33. The Government accepts this recommendation. This will be kept under review as the programme delivers fully embedded Frameworks in departments.

7. Response to Quality Assurance Recommendations

Recommendation: *We recommend that the current process for reviewing Frameworks is strengthened with explicit responsibility given to the designated team in the Cabinet Office to ensure consistency, where appropriate, across the programme. (Paragraph 150).*

34. The Government does not accept this recommendation. The Cabinet Office provides a significant level of oversight along with our colleagues in the devolved governments with a particular focus on ensuring a consistent approach in the structure of Frameworks and how they handle cross-cutting issues. However the Cabinet Office is not responsible for drafting the Frameworks themselves and so the Government cannot accept this recommendation. That responsibility lies with the policy teams in individual government departments and the devolved governments. The central Cabinet Office team has issued templates and best practice guidance to all departments and engages frequently with policy teams. It has been helping individual departments to review Frameworks to ensure consistency at various milestones - the end of phase three; prior to scrutiny; and prior to full implementation - where consistency is desirable, which it may not be in all cases. The templates and standard text are designed to provide structure, subject to four-government agreement, but with flexibility to respond to different circumstances.

Recommendation: *We recommend that all of the drafting errors we have highlighted in our scrutiny are corrected, and all provisional frameworks are reviewed to check for factual errors, textual omissions, and drafting problems. The current process for proofing and reviewing frameworks must be strengthened as a matter of urgency. (Paragraph 157).*

35. The Government accepts this recommendation and is grateful to the Committee and its staff for their support in conducting scrutiny. Whilst the Cabinet Office is not responsible for the majority of the content of the Frameworks themselves (which lies with the policy teams in individual government departments who own the Frameworks), the Government agrees that review processes should be streamlined and strengthened to reflect lessons learned, and indeed Cabinet Office already has, in partnership and agreement with the devolved government central teams, recently amended, through the Common Framework Project Board, our review processes. This includes making the pre-scrutiny light touch review more rigorous, to try to reduce the likelihood of this happening in future, including through revising the review checklists that guide our review processes.

Recommendation: *We recommend that the number of working groups needed in frameworks, and their relationships with one another, are reviewed to ensure the processes outlined operate efficiently. The number of working groups required should be minimised to what is necessary to ensure efficient but robust operation. (Paragraph 164).*

36. The Government agrees with this recommendation. Whilst policy teams are responsible for determining the number of working groups required for each

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Framework, the Government agrees that these groups should be minimised to what is necessary to ensure efficient but robust operation.

37. Accordingly, the Cabinet Office will take steps to promote this best practice by agreeing central guidance with devolved government central teams and disseminating to policy teams though the Government notes individual departments are best placed to make the final determination as to which groups should be included and why.

Recommendation: *We recommend that all frameworks should include a clear flow diagram to show the relationship between all working groups mentioned in the framework. (Paragraph 165).*

38. The Government accepts this recommendation. Policy teams take responsibility for determining the number of working groups necessary for each Framework depending on the particular policy area at hand. However, a working group flow chart is a very useful recommendation, and whilst Cabinet Office cannot strictly require it, Cabinet Office will include this request in the central guidance setting out best practice for policy teams and cover it in reviews during the Framework development process.

Recommendation: *We recommend that all frameworks should include clear terms of reference for all working groups. (Paragraph 166).*

39. The Government accepts this recommendation and agrees that terms of reference are useful for understanding the role of a working group. In many cases these are included in the Framework documents - usually in the roles and responsibilities section, the decision making section, or annexed to the Framework itself. Again, the distinction between the groups that are actually delivering Framework governance, and the groups that are an essential part of the policy context in which Frameworks operate need to be sustained. In the former case, the Government agrees Terms of Reference, even brief ones, ought to be included in Frameworks, and Cabinet Office will make this case to policy teams accordingly.

8. Response to Transparency Recommendations

Recommendation: *To ensure greater transparency, we recommend that as Common Frameworks become more embedded, stakeholders should be routinely engaged. We reiterate the recommendation in our first report that future reviews of frameworks should include an open and well-publicised stakeholder consultation process. These should reach beyond the low and variable numbers of stakeholders previously consulted, so as to ensure that all those directly affected have a meaningful opportunity to contribute. (Paragraph 181).*

40. The Government accepts this recommendation. The Government agrees on the importance of transparency across the Common Frameworks programme - which is why the Government includes updates of the programme in the quarterly intergovernmental relations transparency reports.

41. During the development phases, UKG and devolved governments have conducted stakeholder engagement across all Frameworks on a joint and open basis. The Government is committed to continuing this and to providing a transparent process for stakeholders to comment on final published Frameworks. The Common Frameworks page on gov.uk should be updated by departments to draw attention to forthcoming reviews, and direct stakeholders to contact departments with their comments.

Recommendation: *Accountability to Parliament is of fundamental importance. We recommend that the process for ongoing reporting to the legislatures on the operation of Common Frameworks be developed as a matter of urgency. (Paragraph 192).*

42. The Government accepts this recommendation. Work with devolved governments is still underway to agree the process for the monitoring and governance of Common Frameworks following their finalisation. This includes development of a standard template for reporting to be used across all Frameworks, enabling a jointly-agreed overview of Framework operation, to be shared with the Inter-Ministerial Standing Committee and all legislatures. The Government anticipates the details of this proposal will be able to be provided to ministers and brought to the attention of the UKG and devolved government Inter-Ministerial Standing Committee in the coming months.

Recommendation: *We also recommend that all Frameworks be updated to include a commitment to update the relevant committees in the UK Parliament, and the three devolved legislatures, on the ongoing functioning of all frameworks after the conclusion of scheduled reviews. This is critical for ensuring ongoing transparency and accountability for the Common Frameworks programme. (Paragraph 193).*

43. The Government agrees with this recommendation and the Cabinet Office will promote this approach as best practice. It will be for legislatures' individual committees to work with Government to agree specific ways of working for providing updates a specific Common Framework and its policy area.

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44. Hazardous Substances Planning and Food & Feed Safety & Hygiene are the only two Frameworks to contain an explicit commitment to update legislatures following periodic review. Of the Common Frameworks, only Hazardous Substances Planning has been implemented long enough to have its first review and the outcome of that will be able to be shared with legislatures in due course.