



## Department for Levelling Up, Housing & Communities

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

**Felicity Buchan MP**  
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29 November 2022

Dear Baroness Andrews,

Thank you for your letters to the Secretary of State for Levelling Up, Housing and Communities, the Secretary of State for Business, Energy and Industrial Strategy and the Secretary of State for Environment, Food and Rural Affairs regarding the Government's response to your report into the operation of Common Frameworks. I am responding on the Government's behalf as the Parliamentary Under Secretary of State for the Union

***1a. Th[e] paragraph [about following Common Framework processes for REUL falling under Frameworks] implies that the REUL necessary to uphold common frameworks has been identified. Please can you let us know which REULs, including those contained in devolved legislation, have been identified?***

Paragraph 23 of the Government's response is not intended to imply that all the REUL covered by Common Frameworks has been identified. However, it is the case that the vast majority of Common Frameworks do set out the key REUL relevant to the Framework.

More broadly, the UK Government has an ongoing process to identify all REUL and update the [public dashboard](#) maintained by the Department of Business, Energy and Industrial Strategy, which is updated on a quarterly basis. This includes working in partnership with the devolved governments (DGs) to identify REUL that falls within devolved competence.

***1b. How is the Government's commitment to retain REUL falling within common frameworks (subject to agreed processes) compatible with the Retained EU Law (Revocation and Reform) Bill's power to grant delegated powers to UK ministers and devolved authorities to change REUL by statutory instrument?***

Common Frameworks provide fora and mechanisms for intergovernmental discussions between the UK Government and devolved governments concerning REUL that fall within their scope. DLUHC and the Cabinet Office are working with UK

government departments to ensure these discussions take place within that Framework.

The Government has not committed to retain all REUL covered by Common Frameworks. It has however publicly committed to follow the processes set out in Common Frameworks when approaching reforming REUL covered by a Common Framework. Our ambition is that the UK and devolved governments agree their approaches to individual pieces of REUL and then the delegated powers could be used to preserve, amend or repeal REUL as required. In some cases this will mean DGs make their own Statutory Instruments and in others there may be agreement for the UK Government to make these on a UK-wide basis.

***1c. The Committee is unclear about how the mechanisms included in the dispute resolution processes will be able to work effectively in this context. Can further detail be provided on how this process will work in practice? Have the devolved administrations been consulted on this and are they content with the mechanisms that are in place to address these matters?***

Despite some differences of opinion on the timetable and scope of REUL reform, UK Government and devolved governments agree that where Common Frameworks are operating they are the right mechanism for discussing REUL reform in the areas they cover.

There are minor differences between the dispute avoidance and resolution mechanisms set out within different Common Frameworks but they all follow approximately the same structure of escalation from working level up to ministers, with a strong emphasis on the principle of subsidiarity throughout. This model applies to all Common Frameworks and does not distinguish between discussion of proposals for REUL reform and discussion of any other relevant policy change within the Framework.

We expect the stages of the dispute resolution processes to be:

- At stage 1, any Party (or Parties) with a concern will notify the other(s) in writing, detailing the nature of their concern and establishing the reasons for invoking the Common Framework's dispute avoidance and resolution process.
- Once these representations have been considered, officials would convene to:
  - Agree a formulation of the disagreement;
  - Identify an acceptable resolution and the steps required to achieve it. (For example, agreeing a potential change to the Framework to be agreed by ministers).
  - If an acceptable resolution cannot be agreed, or the steps to reach it are not acceptable to all Parties, the disagreement would be escalated to senior officials or de-escalated to the status of a 'difference', having considered it collectively in the meeting.
- If senior official agreement can not be reached, the disagreement could be [escalated to the IGR Secretariat](#) for consideration as a formal intergovernmental dispute.

**2a. What reassurances can you offer that the Government has improved its knowledge of which instruments of REUL are in devolved areas since June 2022, when Mick Antoniw MS expressed concerns that the Government’s dashboard of REUL contained “no information” on this subject?**

BEIS has commissioned departments to provide analysis of where REUL operates in areas of devolved competence on a quarterly basis. The most recent version of the [dashboard](#), published Tuesday 15th November, shows the territorial extent of the pieces of REUL that it includes. In parallel, DLUHC and Cabinet Office have formed a fortnightly working group with the devolved governments to share analysis and to identify REUL that falls within devolved competence. The UK Government is committed to working with the devolved governments to reach a shared understanding on the devolution status of REUL.

**2b. How do you respond to concerns from Dr Viviane Gravey and Professor Colin T. Reid that “the 2400 REUL list is just an estimate ... the different UK administrations will have to keep looking for unlisted instruments to ensure no instruments are ‘sunseted’ by mistake”?**

The REUL Dashboard presents a catalogue of where EU-derived legislation remains on our statute book, not a comprehensive list. BEIS will continue to work across government to develop this and the data will be updated on a quarterly basis, as we identify further legislation, or as REUL is amended, repealed or replaced. The second iteration of the dashboard has now been published.

As part of the work to continuously improve the content of the dashboard, BEIS has also been working closely with The National Archives in developing the dashboard and asked them to search their archive for REUL that may have been orphaned by Machinery of Government changes. Further REUL that has been identified will be uploaded to the dashboard once verified with departments.

**3a. How and when will the UK parliament and the devolved legislatures be updated on the impact of the Protocol on the function of the frameworks?**

The UK and DGs continue to work together on an annual reporting model for fully implemented Common Frameworks to report to intergovernmental relations structures, the UK Parliament, and the devolved legislatures. Progress has been made on refining this model following engagement with policy teams. It will set out operational detail for the functioning of Common Frameworks during the reporting period, and this can include the impact of the Protocol on Frameworks. At present only one Common Framework – Hazardous Substances Planning - has been fully implemented for a sufficient amount of time to have completed a review period, and the outcome of this review will be shared with legislatures. That Framework does not have an NI Protocol intersect.

**4a. Th[e] paragraph [that BEIS has confirmed commitments for operating the NI Protocol and international obligations in REUL will be retained] implies that the REUL necessary to uphold the Protocol has been identified. Please can you let us know which instruments of REUL, including those contained in devolved areas, have been identified?**

The Minister for Enterprise and Markets set out in Parliament on 25 October (Hansard Column 189) that he was “very happy to make a commitment today that the Government will, as a priority, take the necessary action to safeguard the substance of any retained EU law and legal effects required to operate international obligations within domestic law”. The minister further confirmed that the government would “set out where retained EU law is required to maintain international obligations through the dashboard, so that the public can scrutinise it”.

**5a. What steps are being taken to increase consistency across the common frameworks programme? Are there, for example, any cabinet committees or IMGs in operation to assist with the coordination of the programme?**

To address question 5 and the points in your covering letter: when the response was issued, the programme was included in the remit of the Chancellor for the Duchy of Lancaster. Since then, ministerial changes mean the programme is now within the remit of the Secretary of State Michael Gove who is also Minister for Intergovernmental Relations. As the named Parliamentary Under Secretary of State with responsibility for the Union and Constitution, Common Frameworks are a key part of my portfolio. However, the officials who provide the central coordination and direction for the programme remain within the Cabinet Office as part of the UK Governance Division with responsibility for intergovernmental relations and UK-wide governance.

Furthermore, the government has a dedicated Cabinet sub-committee to consider matters relating to the Union, chaired by the Prime Minister with the Chancellor of the Duchy of Lancaster and Secretary of State for DLUHC as Deputy Chairs.

I hope this has helped to address your concerns. For your information, I am copying this response to the Secretaries of State of both BEIS and DEFRA.

Yours ever,

A handwritten signature in dark ink that reads "Felicity Buchan". The signature is written in a cursive, slightly slanted style.

**Felicity Buchan MP**  
Minister for Housing and Homelessness