



# HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords  
London  
SW1A 0PW

[hlcommonframeworks@parliament.uk](mailto:hlcommonframeworks@parliament.uk)

Felicity Buchan MP  
*Minister for Housing and Homelessness*

Department for Levelling up,  
Housing and Communities  
4<sup>th</sup> Floor, Fry Building  
2 Marsham Street  
London SW1P 4DE

14 December 2022

Dear Felicity,

On behalf of the Common Frameworks Scrutiny Committee, I would like to congratulate you on your new post as Parliamentary Under-Secretary of State for Housing and Homelessness. The Committee and I look forward to engaging with you further on the Common Frameworks project. Thank you for your letter dated 23 November, although the delay in your response has been noted.

## **General issues**

The Government told us that all 32 Common Frameworks would be completed by January 2021. As it stands, only one framework has been finalised and published, meaning that 31 are extremely overdue. Twenty-six frameworks exist only in a provisional state, whilst six have not been published in any form.

Our ministerial correspondence has hardly fared better. Between October and December this year, the Committee has sent five letters to DEFRA on five frameworks, on each occasion requesting a reply within 10 working days. We have not received any responses to our letters. The response to the earliest letter we sent (on the F-Gas and ODS framework) is now seven weeks past its due date: this constitutes an unacceptable delay. This lack of departmental engagement has seriously impinged on our ability to undertake parliamentary scrutiny of the common frameworks programme and raises the issue of how much priority is being given to this extremely important programme which impacts on the Devolved Administrations across the UK.

1. Will you undertake to investigate the delay in responses to our correspondence, to ensure that the responses from DEFRA on the common frameworks are responded to as soon as possible?
2. Should Defra continue to neglect to reply to our correspondence, will you commit to coming before the committee to answer our questions in their stead?

As we made clear in our report, we feel very strongly that the best home for the common frameworks programme is within the Cabinet Office. We do not understand the rationale behind assigning this portfolio to a Minister in the Department of Levelling Up, Housing and Homelessness, who holds no ministerial responsibility in the Cabinet Office, where the senior civil servants with responsibility for common frameworks undertake their work.

### Specific issues

Your letter of 23 November has raised some serious concerns, not least about the potential impact of the Retained EU Law (Revocation and Removal) bill on the Common Frameworks project.

3. Section 1a of your letter states that “the **vast majority** of Common Frameworks do set out **the key** REUL relevant to the Framework” (our emphasis).
  - a) Which Common Frameworks are in the minority that do not set out the key relevant REUL? When will they be updated?
  - b) If “not ... all the REUL covered by Common Frameworks has been identified”, and thus an unknown amount of it is unidentified, then how has the Government made an assessment of which pieces of REUL are “key”?
    - i. Please can you set out the criteria by which this assessment was made?
    - ii. Approximately how much of the a) reserved and b) devolved REUL i) in total and ii) specifically relevant to Common Frameworks is yet to be identified?
  
4. Section 1b states that “our ambition is that the UK and devolved governments agree their approaches to individual pieces of REUL” and section 1c states that “where Common Frameworks are operating, they are the right mechanism for discussing REUL reform in the areas they cover”. Many frameworks (e.g. on Food Compositional Standards and Labelling) set out non-legislative arrangements for co-operation between officials, sometimes in non-ministerial government departments.
  - a) Do you anticipate that agreements on individual pieces of REUL relevant to Common Frameworks will be reached between officials? Do you think it is appropriate for unelected officials to be making decisions about whether to retain UK laws or not?
  - b) What role do you anticipate ministers will have in making these agreements?
  - c) What role do you anticipate the UK parliament, the Scottish parliament, the Senedd, and the Northern Ireland Assembly will have in i) making these agreements and ii) scrutinising any agreements made?

5. Common Frameworks were never designed to act as fora for the discussion of proposals for REUL reform under the terms set out by the bill.
  - a) How will the Government mitigate any capacity challenges that may arise within framework channels from the addition of this substantial task?
  - b) DEFRA has REUL relevant to 14 frameworks to consider, along with many other instruments identified on the REUL dashboard. How will an order of priority be decided?
  
6. Section 1c sets out the dispute resolution process model which applies to REUL reform within Common Frameworks.
  - a) We note that this model does not include a timeframe by which you expect each stage of the process to be completed.
    - i. How quickly could a dispute raised at stage 1 pass to the final stage of escalation by the IGR Secretariat: a meeting of the Prime Minister and Heads of Devolved Governments Council?
  - b) We note that at no point in this dispute resolution process is the UK parliament or any devolved parliament or assembly offered an opportunity to input into the process.
    - i. Should a particular piece of REUL prove controversial, what opportunities will these bodies have to feed into the decision-making process?
  
7. Section 2a states that “the most recent version of the dashboard, published Tuesday 15 November, shows the territorial extent of the pieces of REUL that it includes”. Section 1a confirms that the dashboard is “updated on a quarterly basis”. On Wednesday 30 November, the Secretary of State for DEFRA told the House of Lords Environment and Climate Change Committee that there were “about 1,100 pieces of [environmental] legislation ... on the books”.<sup>1</sup> On 6 December, the dashboard showed 570 pieces of DEFRA REUL. There was no information publicly available about territorial extent of the pieces of REUL included.
  - a) If the REUL dashboard states that there are 570 pieces of DEFRA REUL, why did the Secretary of State give another figure, which is more than twice the lower figure stated on the REUL dashboard?
  - b) Why is there no information publicly available about the territorial extent of the pieces of REUL included? When will this information be made available?
  
8. Section 2a states that the public REUL dashboard will be updated quarterly. There are four quarters between now and the deadline of December 2023.

---

<sup>1</sup> [Q8](#)

- a) Given that, as in section 1a of your letter, not all REUL has been identified, how confident are you that all i) reserved and ii) devolved REUL relevant to Common Frameworks will be a) identified and b) revised by this deadline?
  - b) Are you confident that the Government and Devolved Administrations will have adequate time to consider and review any REUL identified in Q4 before the December 2023 deadline?
9. Section 2a states that the Government is “committed to working with the devolved governments to reach a shared understanding of the devolution status of REUL”.
- a) Jayne Brady, Head of the Northern Ireland Civil Service, has said that the bill will “present a significant legislative burden for both the NI Civil Service and NI Assembly”. Does the Government consider it wise to pursue this bill in the absence of the NI Assembly?
  - b) How will the Government ensure the democratic participation of the people of Northern Ireland in the bill in the absence of the Assembly?
  - c) How will the dispute process described above be implemented in the absence of a Northern Ireland Assembly?
  - d) If the Northern Ireland Assembly does not resume, will the Government give the Northern Ireland Civil Service extra time to implement the bill?
10. Section 2b states that the REUL dashboard is “a catalogue of where EU-derived legislation remains on our statute book, not a comprehensive list”, and that you have been working with the National Archive to search for “REUL that may have been orphaned by Machinery of Government changes”.
- a) Do you think it is possible to undertake the job of repealing or replacing all REUL without a comprehensive list? Do you ever expect to have a comprehensive list, if so, when do you expect that list to be complete?
  - b) How much REUL do you or the National Archive estimate may have been orphaned by machinery of government changes?
  - c) What will happen to REUL orphaned by machinery of government changes which is i) left off the list entirely ii) only recovered after the December 2023 deadline?
11. In section 3a, you note that only one Common Framework, on Hazardous Substances (Planning), has been fully implemented, and as such, is the only one that has been able to complete a review period. The original deadline for all 32 frameworks to be finalised was January 2021, meaning that 31 of them are nearly two years late.
- a) When will the Hazardous Substances (Planning) review be shared with parliament?

- b) If the Common Frameworks are to be used as for a REUL reform, what impact will this have on i) the progress of the frameworks from provisional to final stage and ii) the capacity of the frameworks to complete a review period?
12. In section 4a you quote the Minister for Enterprise and Markets confirming that the Government “will, as a priority ... safeguard the substance of any REUL and legal effects required to operate international obligations within domestic law”
- a) Will you explain how this statement is compatible with the intention of the bill to revoke the direct effect, supremacy, and the general principles of EU law?
13. Some of the REUL liable for removal under the bill is affected by non-EU law e.g. EU directives, which are partly EU and partly domestic law. To disentangle REUL from domestic law will be highly difficult and complex work. Please will you clarify what the Government proposes to do in such cases?
- a) What impact is this work likely to have on the Government’s December 2023 deadline?
14. We note the Future Regulatory Framework review whereby HM Treasury, supported by regulators has undertaken two consultations before bringing forward legislation to make changes to REUL that regulates financial services through the Financial Services and Markets Bill. We note that impact assessments that carried out as part of purpose were rated as fit for purpose by the Regulatory Policy Committee.
- a) Can you explain why a similar approach hasn’t been taken for the REUL that underpins the common frameworks programme?
  - b) We also note that the Regulatory Policy Committee have rated the REUL Bill impact assessment as not fit for purpose. What plans does the Government have to address these deficiencies to ensure that the common frameworks programme remains operational and effective?
15. The Senedd has voted through the Environmental Protection (Single-use Plastic Products) (Wales) bill. The bill bans some single-use plastic items which are not covered by the exclusions process provided by the United Kingdom Internal Market Act 2020 (Exclusions from Market Access Principles: Single-Use Plastics) Regulations 2022 (e.g. plastic-stemmed cotton buds and thin plastic single-use carrier bags).
- a) Is the UK Government inclined to use the Welsh single-use plastic products bill as a test-case for the exclusions process?

Thank you for your engagement on this topic and with the Common Frameworks programme. We were surprised upon receipt of your letter to discover that your title does not include any reference to your union and constitution portfolio. We are concerned that it does not send the right signal regarding priority, seriousness, and intent if the Minister with responsibility for this crucially important portfolio does not have that brief reflected in their job title

We expect a reply to this letter no later than 5 January and would appreciate if you could keep to our deadline to ensure the timely parliamentary scrutiny of this important piece of government business.

I have copied into this letter Mick Antoniw MS, Jayne Brady, Michael Gove MP, and Angus Robertson MSP.

Yours sincerely,

Baroness Kay Andrews

Chair of the Common Frameworks Scrutiny Committee