



Department for Levelling Up,
Housing & Communities

Felicity Buchan MP

Parliamentary Undersecretary of State

**Department for Levelling Up, Housing
and Communities**

2 Marsham Street

London SW1P 4DF

Baroness Andrews
Chair, Common Frameworks Scrutiny Committee
House of Lords

16 January 2023

Dear Baroness Andrews,

Thank you for the Committee's continued scrutiny of the Common Frameworks programme, including your recent very helpful scrutiny of the Organic Production Common Framework.

When I last wrote to you, I indicated that I would send a more substantive response to answer the specific issues your Committee raised with me that fall within my purview.

Questions 3a and 3b

I am pleased to confirm each Framework that has received at least provisional clearance sets out the retained EU law (REUL) that it covers. Most Frameworks go into detail on this, either in the scope section of the Framework (e.g. Specified Quantities) or in a specific annex covering EU law (e.g. Air Quality). Individual departmental policy teams will decide which REUL to include in their Framework document, and this will generally be the REUL that is most relevant to the policy context in which the Framework operates. We are not aware of any Frameworks where policy teams consider they have not identified all relevant REUL.

Questions 4a, 4b and 4c

Common Frameworks enable officials to present Ministers with recommendations for agreement on a policy approach and Ministers make decisions based on those recommendations. Where these decisions result in legislation, as is the case for REUL reform, legislatures can scrutinise the SIs in the normal way.

Question 5a

Each department will resource their teams adequately to carry out REUL reform, including relevant engagement set out in Common Frameworks in line with the sunset date. There is no question of separate resourcing needed for engagement on Frameworks. Separate to the REUL Bill, REUL reform via primary legislation has already taken place in many policy areas (the REUL dashboard lists 196 pieces of REUL which have already been repealed) and UK Government departments are familiar with the resources required to manage this. The Government plans to update the dashboard at the earliest opportunity.

Questions 6a and 6b

The timeframes for each escalation stage for the dispute resolution process are outlined in the jointly operationalised ways of intergovernmental working published on gov.uk. Overall, the aim is to resolve disagreements as quickly as possible and at the lowest possible level. The dispute process is managed by the impartial IGR Secretariat which has a specified set of timeframes in which to facilitate each stage and which can only be deviated from by mutual agreement.

In summary, the timescales are as follows:

- For **stage one**, the relevant Secretariat will coordinate a meeting of the Senior Officials' Group within 10 working days.
- If necessary, **stage two** makes provision for convening a meeting of the relevant ministers within 10 working days.
- Finally, **stage three** states that, following third-party advice (if relevant), the dispute will then escalate to the Prime Minister and Heads of Devolved Governments Council for consideration of the dispute and the third-party advice within a month.

If governments reach a stage in the process where they are unable to reach a resolution and progress the dispute further, each government must make a statement to their respective legislatures setting out the circumstances for the failure to reach a solution.

Thorough thought has been given to the dispute resolution mechanism, including the provision to seek advice from an external body to support a resolution process. This does so without creating a quasi-judicial process in arbitrating disputes, which would not be appropriate for a process that facilitates intergovernmental working between elected governments. At the heart of the mechanism is ensuring transparency to enable scrutiny of processes and outcomes.

Questions 8a and 8b

The Brexit Opportunities Unit is continuing to work with UKG departments and devolved governments to identify REUL. The most notable pieces of REUL in significant policy areas have already been identified by departments and The National Archives continue to support the Government in this process. Furthermore, the Bill provides a power for ministers to provide by secondary legislation for an extended sunset date (up till 23 June 2026) for specific (or specifically described) REUL, where further time is needed to properly consider reform of such REUL. As I mentioned above, all 30 Common Frameworks that are thus operational already

set out the REUL that intersects with them. My officials will continue to check whether any newly identified REUL falls under a Common Frameworks as it is identified.

Question 9c

The question relates to the NI Assembly. As the NI Assembly does not have a formal role in Common Framework dispute resolution, we have understood this question to concern the NI Executive. Disputes do not automatically involve all governments - only those who are involved in the dispute. In the absence of an Executive, there are no NI ministers to initiate disputes or to make decisions where Northern Ireland Executive departments may be a party, should any disagreements prove irresolvable at official level. The UK government is focused on restoring the Executive as soon as possible.

Question 11a

In accordance with what is set out in the Hazardous Substances Common Framework, a review meeting between UKG and devolved governments took place on the one year anniversary of the Framework being finalised. Whilst there is no requirement to report to legislatures, UKG officials have prepared a summary of the meeting for the Committee and, pending devolved government counterparts' comments, we hope to provide this soon.

Question 11b

The Common Frameworks programme continues towards completion with one Framework published in December and another to be published imminently. Where Frameworks have not yet been fully implemented, any changes needed as a result of REUL reform will be considered during Framework development. We do not anticipate this creating any substantial delay to full implementation. For Frameworks that are fully implemented, the post-implementation Review and Amendment process would be triggered if sufficient change is made to the REUL covered by that Framework. Any Review would look at changes to the Framework needed to reflect REUL reform, in keeping with the purpose of the review mechanism.

Questions 14a and 14b

Once the Bill receives Royal Assent, work by UKG departments on reform will continue. They will review their REUL, prioritise areas for reform and lay Statutory Instruments where appropriate. The process may include designing policy and services, conducting stakeholder consultations and supporting individuals who may be impacted by any such reform. Departments will conduct analysis of the impact of the powers in this Bill when they decide how to make use of those powers.

The red rating from the Regulatory Policy Committee reflects the limited information available at this stage to quantify the potential impacts around how the enabling powers in the Bill will be used by departments. Every effort has been made in the impact assessment to qualitatively set out this uncertainty and the assessment explores in detail how REUL is distributed by policy area, department and sectors of the economy. The UK Government recognises the

importance of proportionate and rigorous analysis of impacts from changes made using the powers in the Bill and the Department for Business, Energy and Industrial Strategy is working across Whitehall to facilitate this.

I trust that this answers the Committee's questions. I am aware you have already commenced scrutiny of the Resources & Waste Framework, which was published in December, and I am pleased to confirm that I expect that the Emissions Trading System Common Framework will also be published for the Committee's scrutiny in the coming weeks.

Yours ever,

A handwritten signature in dark ink, reading 'Felicity Buchan'. The script is cursive and fluid, with the first name 'Felicity' and the surname 'Buchan' clearly legible.

Felicity Buchan MP
Parliamentary Under-Secretary of State to the
Department for Levelling Up, Housing and Communities