



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

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Dear Emily,

Food and Feed Safety and Hygiene (FFSH) Common Framework

Thank you for the FFSH Provisional Framework, which was considered by the Common Frameworks Scrutiny Committee on 8 December. While we welcome many aspects of the Provisional Framework, due to the complexity of the policy area that it covers there are a number of areas where we would welcome some clarification.

The Provisional Framework states that it will be implemented through the concordat between the four governments and a revised Memorandum of Understanding (MoU) between the Food Standards Agency (FSA) and Food Standards Scotland (FSS). While the Provisional Framework includes a draft version of the concordat, we are disappointed it does not include a draft version of the revised MoU, given its importance. Can you please explain why the revised MoU has not been provided as part of, or alongside, the Provisional Framework?

It remains unclear to us how the framework will apply to Northern Ireland for issues covered by the Northern Ireland Protocol. The Provisional Framework states that “full risk analysis may not be undertaken for some EU regulations” assessed as routine at triage that will apply in Northern Ireland. The concordat excludes officials in Northern Ireland from the requirement to aim to implement common policy approaches and excludes Northern Ireland from the requirement that the dispute mechanism will be triggered if a common approach cannot be agreed and divergence is not acceptable to all parties. Can you explain exactly how the framework processes will respond to new EU food safety law affecting Northern Ireland? Will the first response be an attempt to agree a four-nation approach, including Northern Ireland? Will the FSA and FSS conduct a risk analysis on the possibility of implementing the new rules across the UK? If the rest of the UK wishes to maintain its current standards and not adopt new EU rules, and Northern Ireland does not agree, is the dispute process triggered automatically? If not, can Northern Ireland choose to trigger the dispute mechanism? How will the framework prevent changes in EU regulations from creating ever-increasing divergence between Northern Ireland and the rest of the UK?

By the time you respond to this letter, the Internal Market Bill will have concluded its passage through Parliament and the UK-EU negotiations will have concluded. How will the internal market legislation interact with this framework and the Northern Ireland Protocol? Will goods approved in Northern Ireland under EU law be available in all parts of the UK? Could you also tell us what access the UK will have to the Rapid Alert System for Food and Feed (RASFF) or whether there will be intelligence sharing with the European Food Safety Authority (EFSA)?

The Provisional Framework includes several principles that will govern the operation of the joint risk analysis process. This includes independent challenge to the joint risk analysis process and governance arrangements to recognise devolved matters in the prioritisation, commissioning and quality assurance of risk assessments. Can you provide more information on how these principles will function in practice? How will the independent challenge incorporate concerns from all four nations and how will these governance arrangements operate? Could you provide more information on the independent scientific advice that the FSA receives as part of its risk assessments?

It is disappointing that the Provisional Framework does not contain any explicit commitment to ongoing parliamentary scrutiny. While it notes that the Framework Management Group will conduct an annual review of the framework, you previously told us that “the FSA and FSS will undertake an annual review of the FSA-FSS MoU and will produce a joint annual report which will be publicly available.” To what extent will the Framework Management Group’s review of the framework feed into this annual report?

The Provisional Framework states that mechanisms for joint working should provide a recommendation on the most appropriate means for implementing decisions within the framework, including whether decisions should be implemented in primary or secondary legislation, or through guidance. In your letter of 3 November, you told us that primary legislation will not be required to implement the framework and that officials would review whether changes to give the Secretary of State additional powers to make changes to retained EU law would be necessary. Given that EU retained law is secondary legislation, which involves reduced parliamentary scrutiny, has the FSA considered new primary legislation to put some elements of the new regime into primary legislation to ensure proper parliamentary scrutiny of future changes to UK food safety law?

We are committed to working within the agreed timetable for scrutinising this framework and therefore look forward to receiving your response to this letter before the end of the year.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee