



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

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Rt Hon Michael Gove MP
Secretary of State for Levelling Up, Housing and Communities
Department for Levelling Up, Housing and Communities
2 Marsham Street
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24 October 2023

Dear Secretary of State,

The House of Lords Common Frameworks Scrutiny Committee

As you will be aware, the Common Frameworks Scrutiny Committee—a committee I have been privileged to serve as Chair for over three years—will reach the end of its appointment on 31 December 2023. I write on behalf of the Committee today to provide some final reflections on our work, the successes and failures of the Common Frameworks Programme, and to set out the future Parliamentary scrutiny of this critical area going forward.

The Common Frameworks Committee

The Common Frameworks Scrutiny Committee was appointed in September 2020 to “scrutinise and consider matters relating to Common Frameworks”¹. During this time, we have worked across the Common Frameworks Programme, scrutinising individual frameworks as well as examining the programme as a whole. At the time of writing, the Committee has undertaken detailed scrutiny of the 28 published frameworks, held 22 oral evidence sessions with a wide range of stakeholders, written to Ministers on more than 80 occasions, and published two major reports: ‘Building a Cooperative Union’² in 2021 and ‘An Unfulfilled Opportunity?’³ in 2022.

I am particularly proud of the Committee’s leading role in the scrutiny of the Internal Market and Retained EU Law (Revocation and Reform) bills during their passage through the Lords. In respect to the Internal Market Bill, working with the devolved governments, members of

¹ Common Frameworks Scrutiny Committee, [What are Common Frameworks?](#) (accessed 15 August 2022)

² Common Frameworks Scrutiny Committee, [Common frameworks: building a cooperative Union](#) (1st Report, Session 2019-21, HL Paper 259)

³ Common Frameworks Scrutiny Committee, [Common Frameworks: an unfulfilled opportunity?](#) (1st Report, Session 2022-23, HL Paper 41)

the Committee were able to secure a vital amendment, which gave the Secretary of State power to exclude from the application of UK market access principles specific policy divergences that had been reached through the Common Frameworks Programme.

On the Retained EU Law Bill, the Committee played an integral role unpicking the complexities arising from the Bill's interaction with the Common Frameworks Programme; highlighting significant concerns and pushing for much-needed clarity. These efforts helped to persuade the Government to take a more reasoned and careful approach to the Bill, both in respect to its timetable and implications, particularly for devolution.

In addition to the collective and individual work of the Members of the Committee—both on the floor of the Chamber and in discussions behind the scenes—I pay tribute to the work of the Committee's secretariat, particularly their unique and detailed work in identifying and listing the retained EU law that fell within the scope of the published Common Frameworks. Collectively, these efforts informed the work of the House, not least Ministers involved, shaping the Bill for the better as it made its way through Parliament.

Common Frameworks and Devolution

Common Frameworks have proved to be an important mechanism for reaching consensus on policy areas for which powers returned to the UK on its departure from the European Union and, with the following caveat, it remains our view that the Frameworks have proven to be robust, innovative, and unique sources of collaboration between the UK Government and the devolved governments. We are still, however, of the opinion that Common Frameworks remain an 'unfulfilled opportunity' on the grounds that neither the original expectations of Common Frameworks as vehicles for policy development, nor the potential for using the Common Frameworks as a mechanism for policy coordination, have been met. Rather, the programme has, with the passage of time, become process rather than policy driven.

A particular strength of the Programme has, however been its ability to help all parties navigate ambiguity and uncertainty – culminating in the stasis caused by the collapse of the Northern Ireland Executive – a point illustrated by the fact that one of our first discussions on Common Frameworks was with a Committee of the NI Assembly. But throughout the past three years officials from the Cabinet Office have worked tirelessly to maintain the Programme's momentum and promote the awareness and operation, and the mainstreaming, of Common Frameworks despite setbacks and challenges. Although the Programme differs from its 2017 blueprint, Common Frameworks are now an integral part of government.

One consistent challenge, however, has been the Government's failure to implement the Common Frameworks Programme to the timetable as envisaged. While the Government indicated that all 32 Common Frameworks would be finalised by January 2021, as it stands, only one finalised framework—Hazardous Substances—has been published⁴. We do however

⁴ Letter from Baroness Andrews, Chair of the Common Frameworks Scrutiny Committee to Felicity Buchan MP, Parliamentary Under-Secretary of State (Department for Levelling Up, Housing and Communities), 14 December 2022 committees.parliament.uk/publications/33907/documents/185577/default/

recognise that significant progress has been made, with 28 frameworks published and operating on a provisional basis. In this regard, we are pleased that these 28 frameworks are operating despite the absence of a Northern Ireland Executive, although we are aware that there may be some changes to these frameworks following legislative scrutiny by the Northern Ireland Assembly and the views of the Executive upon its return. In this context, however, one additional point to note is that, despite our expressed concerns, some departments have failed to include the Irish government in discussions on those cross-border frameworks of equal significance to Ireland and Northern Ireland.

There are therefore many positive outcomes to report. However, the Committee feels that, after three years, the absence of finalised frameworks is evidence that the Government has continually underestimated the effort, collaboration, and coordination required to successfully implement the programme. While some of this reflects the pace, preoccupations and processes of different departments, it also reflects a failure of leadership, drive and focus, at the top of Government, in recognising and optimising the contribution Common Frameworks can make to the resilience of the Union.

We regret, for example, the fact that, despite writing to you personally in your capacity as Secretary of State and Minister for Intergovernmental Relations on several occasions, responses were invariably received from junior ministers. These responses, moreover, were frequently received well after the requested deadline. Notably, the deadline for a response providing the information necessary to inform debate during the passage of the Retained EU Law Bill was significantly exceeded, to the extent that the eventual response was otiose, and the response to a letter on scrutiny of the Plant Varieties and Seeds Framework was delayed by more than two months.⁵

To ensure a more prominent profile and consistent approach to standards across the Programme in Government, our July 2022 report recommended that the process for reviewing frameworks be strengthened by ensuring that responsibility for the Common Frameworks Programme remained within a designated team in the Cabinet Office. While this recommendation was rejected by the Government on the basis that frameworks are the responsibility of individual departments, it did agree that templates and guidance on best practice would be circulated. The Committee was therefore disappointed to observe that frameworks published after July 2022 continued to suffer from many of the problems we had identified in that report, including the omission of various elements such as lists of relevant stakeholders and guidance on the mechanisms for reporting to the devolved governments. Furthermore, there was, and continues to be, wide divergence between departments on the quality of the drafting of their frameworks and the responses received to our recommendations.

In respect to a further development in this area, we are also concerned that the recent transfer of oversight of the Common Frameworks Programme from the Cabinet Office to the Department for Levelling Up, Housing and Communities poses risks to the future

⁵ committees.parliament.uk/publications/34377/documents/189351/default/

coordination of the Programme, not least through the loss of the Cabinet Office's expertise and influence as the Government's central coordinating department. We do accept, however, that delivery from a single department will provide a more coordinated and coherent structure for the governance and coordination of the Programme, rather than this work being split across two departments, as has been the case hitherto. To be successful in terms of devolution, however, this requires proactive political leadership.

We therefore call on you, as Secretary of State for Levelling Up, Housing and Communities and Minister for Intergovernmental Relations to provide the Programme with your full political and operational support and to work closely with the Secretaries of State for Environment, Food and Rural Affairs, Energy and Net Zero, and Business and Trade as the departments responsible for the greatest proportion of frameworks. In addition, a close relationship with the Cabinet Office should be maintained, given that the office retains co-ordination of the relationship between Common Frameworks and the devolved governments and parliaments.

On a positive note, we are encouraged to learn that a jointly agreed framework operation overview is expected to be provided to Ministers and brought to the attention of the UK Government and Devolved Government Inter-Ministerial Standing Committee in the coming months.

Future Parliamentary Scrutiny

In our second report, we described Common Frameworks as an “unfulfilled opportunity.” While this remains our overall assessment, consistent Parliamentary attention across the four legislatures will be required if this potential is to be fully realised.

In both our reports, in the context of our legislative involvement, and in response to each of the Frameworks we reviewed we have called time and again for a clearer demonstration of parliamentary accountability going forward. We regret that this remains uncertain, but we rely on the devolved governments and parliaments themselves to ensure that work carried out under the Frameworks continues to be reviewed and scrutinised effectively.

Following the dissolution of this Committee, parliamentary scrutiny of the Government's work in this area will continue through the commitment of individual Peers and departmental committees in the House of Commons. The House of Lords Constitution Committee continues to have a responsibility for the constitutional integrity of the devolution settlement going forward. However, in practice, it is very difficult for the Committee, with its very broad remit, to act on this. We are therefore of a mind that, given the significance of the Union, the devolution settlement and the work of the devolved governments and parliaments should be a matter for greater parliamentary scrutiny going forward, We will therefore continue to urge the House of Lords to consider establishing an appropriate committee with this as its focus, including Common Frameworks.

In the meantime, there is another opportunity to facilitate dialogue and cooperation between the legislatures of the devolved nations and Westminster. The Interparliamentary Forum may

be ideally placed for exchanges on matters relating to Common Frameworks⁶. Discussions are currently taking place between officials to further develop this opportunity. In the absence of a dedicated committee, I am optimistic that this forum will allow for the continued scrutiny of Common Frameworks and exchange of views going forward.

We call on the Government to engage fully with these efforts, to continue to reflect on this Committee’s recommendations, and to seize the opportunities to energise and enhance the Union that the Common Frameworks Programme presents.

The Common Frameworks Programme reaches across almost every aspect of public policy. This is reflected in the breadth of those that have contributed to its operation and scrutiny. As Chair, I would like to thank members of the Committee for their insight and energies, colleagues in the devolved governments and parliaments, members of the committee’s secretariat—most recently Nick Boorer, Ross Coron, and Clayton Gurney and, previously, Moriyo Aiyeola, Jillian Luke, Lucy Molloy, Holly Woodhead, Glenn Chapman, Erik Tate, Tim Stacey, and Breda Twomey—and to the many people and organisations that contributed evidence to our inquiries and programmes of work.

I am copying this letter to Felicity Buchan MP, Parliamentary Undersecretary of State for Housing and Homelessness, Department for Levelling Up, Housing and Communities; Rt Hon Kemi Badenoch MP Secretary of State for Business and Trade; Rt Hon Thérèse Coffey MP, Secretary of State for Environment, Food and Rural Affairs; Rt Hon Claire Coutinho MP, Secretary of State for Energy Security and Net Zero; Rt Hon Penny Mordaunt, Leader of the House of Commons; Baroness Neville-Rolfe DBE CMG, Minister of State, Cabinet Office; Baroness Bloomfield, Baroness in Waiting; Rt Hon Lord True CBE, Leader of the House of Lords and Lord Privy Seal; Rt Hon Baroness Smith of Basildon, Leader of the Opposition, House of Lords; Lord Gardiner of Kimble, Senior Deputy Speaker of the House of Lords; Rt Hon Lord Callanan, Parliamentary Under-Secretary of State for Energy Security and Net Zero; Baroness Drake CBE, Chair of the Constitution Committee; Mick Antoniw MS, Counsel General and Minister for the Constitution, Welsh Government; Angus Robertson MSP, Cabinet Secretary for the Constitution, External Affairs, Scottish Government; and Jayne Brady, Head of the Civil Service of Northern Ireland.

We would appreciate a response to this letter within the next ten days.

Yours faithfully,

Baroness Andrews

Chair of the Common Frameworks Scrutiny Committee

⁶ <https://www.parliament.uk/business/news/2022/february-2022/launch-of-the-interparliamentary-forum/>