



# HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords  
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2 February 2022

Lord Callanan  
Department of Business, Energy and Industrial Strategy  
1 Victoria Street  
London  
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United Kingdom

Dear Lord Callanan,

Thank you for the Company Law Provisional Framework submitted on 16 December, which was considered by the Committee on 1 February. We are disappointed with the brevity of this framework, and the lack of detail included on the processes it features. We have a number of specific recommendations to improve its content. These updates would improve the quality of the framework with respect to its level of detail and its consistency with other frameworks.

We are concerned with the lack of detail included on the Dispute Resolution process. While detail was provided on the Dispute Resolution process under the Detailed Overview section, it would be more coherent and consistent with other frameworks seen to date to include this information, and to be more expansive with the detail, under the Dispute Resolution heading in the framework. The standard form of words used in other frameworks could be used here if applicable, and if not, then this should be explained. Other frameworks have included more detail by setting out how disputes may attempt to be resolved at each stage of the process, with an emphasis on the first stage at the lowest level. This could involve the Parties seeking to determine the source of the disagreement, considering any evidence, and working through possible solutions. We believe this is important for ensuring a clear, thorough, and effective process.

**We recommend that the framework should be updated to include more detail on the Dispute Resolution process under the relevant heading, with added focus on exactly how disputes may attempt to be resolved at the lowest level, and then at each stage of the process.**

We are also concerned about the lack of detail provided on the Review and Amendment process. Again, the standard form of words used in other frameworks could be used here if applicable, and if not, then this should be explained. With reference to the framework indicating that any issues arising may lead to an exceptional, non-periodic review, we would expect more detail setting out what qualifies an issue for an exceptional review and how this

would be agreed by the Parties. It would also be beneficial to set out how any amendments proposed during a Review would be handled by the Parties, and the agreement process for implementing amendments. Again, we believe this important for ensuring clarity, and a thorough and effective process.

**We recommend that the framework should be updated to include more detail on the Review and Amendment process, with added focus on what issues qualify for an exceptional Review, and how proposed amendments would be handled and agreed during a Review.**

While we note that the purpose of the framework is to build on and formalise pre-existing cooperation between Northern Irish officials and BEIS officials on Company Law policy, the framework lacks reference to its relationship with the JMC principles that underpin the purpose of Common Frameworks in certain policy areas, and the Programme as a whole. This contrasts with the Radioactive substances, and Late Payment frameworks from your department which are more explicit on their relationship to the JMC principles.

**We recommend that the purpose of the framework should be updated to include a reference to how it relates to specific JMC principles.**

We were concerned to note the restricted role for Northern Irish officials as set out in the roles and responsibilities section of the framework. While we accept that BEIS currently have the consent of Northern Ireland to legislate on their behalf on Company Law policy, there should still be some scope within the framework for Northern Irish officials to be proactive and initiate proposals within the framework, as equal Parties and decision makers. As currently set out it is unclear how the framework aligns with the JMC principle that frameworks should “lead to a significant increase in decision-making powers for the devolved administrations”.

**We recommend that the Roles and Responsibilities section of the framework should be updated to ensure there is scope for both parties to initiate policy change in accordance with the JMC Principles.**

The framework is unclear in setting out its relationship to the UK Internal Market. We note from the Cabinet Office’s cross-cutting issues analysis that it was determined the framework has no interaction with the UK Internal Market Act. However, we understand that the UK Internal Market is referenced in this framework as officials from your department have told us they believe decisions taken within the framework could have implications for the wider functioning of the UK Internal Market. We believe this should be explained clearly in the text, alongside highlighting any associated risks and implications. We also take this view with the Protocol on Ireland/ Northern Ireland: that decisions taken in the framework could also have implications for the Protocol. We consider that this should also be set out clearly.

**We recommend the framework should be updated to set out clearly its relationship to the UK Internal Market and Protocol on Ireland/ Northern Ireland, highlight any associated risks, and any implications.**

The justification for the exchange of letters process to formalise the pre-existing cooperation between GB and NI is also not clear. As an element not seen in most frameworks seen to date, we would expect an explanation. We believe that the text should follow the example set out in your department's Late Payment Framework to explain more clearly why an exchange of letters process was specifically adopted in this case. That framework set out that officials had considered a legislative approach and a concordat but considered that an exchange of letters approach was most appropriate to formalise pre-existing cooperation. We believe a similar approach should be taken for this framework.

**We recommend the framework should be updated to set out clearly the justification for adopting an exchange of letters process to formalise pre-existing cooperation between GB and NI.**

We are again disappointed to note the absence in this framework of any commitments on ongoing engagement with Parliament. We note the absence of any commitments in the texts of these frameworks to publish reviews of the frameworks or to update legislatures on the outcomes of reviews. The Government has separately committed to improving transparency in Intergovernmental Relations. Transparency in this area should include regular statements to legislatures on the functioning of these frameworks.

**We recommend that the framework should be updated to include a commitment to update the House of Lords, House of Commons and the three devolved legislatures on the ongoing functioning of these frameworks after the conclusion of the scheduled reviews.**

We again also regret the absence of any commitments on future stakeholder engagement. In our Committee's March 2021 report, we concluded that frameworks were weakened by the lack of stakeholder consultation and recommended that future reviews of frameworks should include an open and well-publicised stakeholder consultation process that reaches beyond the small number of stakeholders previously consulted. We believe that this is necessary in these frameworks as it is with other frameworks.

**We recommend that the first review of the framework should include an open consultation process with stakeholders and the framework should be updated to include an ongoing commitment to stakeholder engagement where necessary.**

We understand that each of the four governments are currently receiving views on this Provisional Framework from their respective legislatures. We therefore look forward to your response to this letter once these have been received, and our recommendations have been considered, together with the final version of the framework.

Yours sincerely,

Baroness Andrews  
Chair of the Common Frameworks Scrutiny Committee