



Department for Levelling Up,
Housing & Communities

Baroness Andrews
Chair, House of Lords Common Frameworks Scrutiny
Committee
House of Lords
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Dear Baroness Andrews,

Thank you for your letter dated 17 March 2022. I would also like to take this opportunity to thank you and the members of the Committee for your work scrutinising the Common Frameworks programme so far.

I have addressed your questions in the order you raised them. I hope these answers will be helpful for you in drafting your final report. I am looking forward to reading it.

1. Coordination with respect to engagement with the Irish Government in the Common Frameworks Programme.

It is one of the Frameworks principles as agreed by JMC(EN) in 2017, that “Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.” Common Frameworks have been jointly developed with the devolved governments in such a way as to recognise these linkages. Since the JMC(EN) principles were agreed, the Northern Ireland Protocol has been drafted and implemented. It aligns the regulatory regime in Northern Ireland with that in the EU (and therefore Ireland) in a number of ways. Common Frameworks have been designed to be consistent with the Protocol and in this respect have regard to the provisions relating to the aforementioned linkages between Northern Ireland and Ireland in the JMC(EN) principles.

Common Frameworks are, by definition, agreements between devolved governments and the UK Government. As DAERA have stated in the correspondence they sent to your Committee on 9 February, “[i]t would not have been appropriate to engage with an EU Member state on internal governance structures required as a result of EU Exit.” That statement applies equally to the UK Government as it does to DAERA and other departments in Northern Ireland. Engagement with a third country may at times be useful to inform policy discussions within the operation of established Frameworks and NICS and other parties to Common Frameworks are entitled to do this where appropriate. As you indicate, this has happened regarding public health (and indeed the Public Health Framework envisions engagement with a wide range of relevant international partners). But as the Irish Government is not a party to intra-UK governance arrangements, provisions for engaging with it on specific policy areas are not necessarily in scope of the Common Frameworks.

Any need for engagement will vary from policy area to policy area and the nexus each government has to specific issues or relationships with the Irish Government. It is for policy teams to decide on

what engagement there should be on the basis of their experience and requirements. Northern Ireland Civil Service officials have the ability to engage with the Irish Government on matters of interest - such as specific policy areas covered by certain Common Frameworks, and as DAERA have set out, they already do, where appropriate, on an ongoing basis. These engagement processes pre-date Common Frameworks and are well established - it is not therefore necessary for them to be replicated within the Frameworks themselves.

2. The process for reporting/monitoring on divergence resulting from the Protocol and work on agreeing an ongoing reporting process to legislatures.

In the Government's response to the Committee's report *Common Frameworks: Building a Cooperative Union*, the Government set out that "it agrees in principle with the Committee's recommendation and considers that there is likely to be value in reporting on divergence, but details of how to approach this are a matter for individual departments. The Government considers that it is vital for the relevant Frameworks to take account of relevant divergence resulting from the Northern Ireland Protocol as well as other sources, and that there should be processes in place for monitoring such divergence. However, the extent to which information about this is gathered in the course of the operation of a Framework and shared with third parties is also a matter for the UK Government and devolved administrations' departments which are parties to the individual Common Frameworks".

The Joint Consultative Working Group (which as you know, is the forum where the UK is kept informed about planned EU laws that will affect Northern Ireland and where the UK and EU will discuss the implementation of laws covered by the Ireland/Northern Ireland Protocol) continues to function, and as such is a key forum for monitoring NI Protocol related regulatory divergence and sharing relevant information with departments.

Following the Ministerial Quad in November, constitutional ministers agreed to explore how we might approach future reporting to legislatures on the operation of Common Frameworks. I can confirm that this work has progressed and I expect a general approach to be agreed with the devolved governments soon. This work is premised on a consensual approach and we are seeking to agree approaches between UKG and devolved government central teams and policy departments.

3. The timetable, content, and aim of the Brexit Freedoms Bill.

The two separate but linked reviews into the status and substance of retained EU law, which began in 2021, will inform the content of the 'Brexit Freedoms' Bill. You can find more information about our proposals in Lord Frost's Written Ministerial Statement on 9 December 2021, and our policy paper, *The Benefits of Brexit*, published on 31 January 2022. The legislation will be brought forward in the usual way.

The objective is to make it easier to amend or remove retained EU law which is no longer right for the whole of the UK and to review its special status in our legal framework. The changes proposed in the Brexit Freedoms Bill will give devolved governments the ability to amend or repeal retained EU legislation more easily, to suit their specific circumstances.

The current expectation is that the Bill will be introduced before the summer recess. The content is still being worked out, but I understand it will likely include measures on the supremacy of EU law, the status of retained EU law and powers to amend retained EU law.

4. The Implications of the Brexit Freedoms Bill for Common Frameworks and intra-UK divergence.

Retained EU law operates across the policy environment within which Common Frameworks operate and I can reassure you that the Government is committed to the proper use of Common Frameworks. The UK Government will not seek to make changes to retained EU law within Common Frameworks without following the ministerially agreed processes in each Common Framework.

Making it easier for the UK and devolved governments to amend retained EU law is likely to make it easier to introduce divergent approaches across the UK. The Bill will not alter the fact that devolved legislatures are currently capable of amending retained EU law within their competence. Where it makes sense to make amendments in any part of the UK, the Bill is intended to make that less onerous.

5. The timetable for the remaining Common Frameworks and how the next phase will be coordinated.

Currently, 30 out of 32 Frameworks are in operation following provisional clearance. The two remaining Frameworks, covering Mutual Recognition of Professional Qualifications and Services, are at an advanced stage of development. Of those 30, 26 have been published on GOV.UK. One of those—Hazardous Substances—is fully implemented, with 25 frameworks currently undergoing scrutiny. Therefore, six frameworks out of the 32 await publication. A central Frameworks team will remain in the Cabinet Office, and we understand the devolved governments will also be retaining a central function. Existing governance structures including the Common Frameworks Project Team and Project Board will be retained and will jointly support the coordination of the publication and final confirmation of the remaining Framework.

6. The reason for the delay to the delivery of these Frameworks for scrutiny.

Publishing a Framework requires the agreement of all parties to that Framework. As was the case during the pre-election periods for elections in Scotland and Wales, the Northern Ireland Assembly pre-election period and subsequent process around forming a new Executive will introduce delays to further publication. Nevertheless, it is my hope that we are able to publish the remaining Frameworks in the coming months and work to progress them for final clearance will continue where possible. Finally agreeing Frameworks will also be determined by the time that legislatures require to complete their scrutiny and the Northern Ireland Assembly and its committees will need to reconstitute themselves following the May elections. We expect to reassess the timetable following the conclusion of the Northern Ireland Assembly elections and I hope that we can finally agree and fully implement all 32 Frameworks this year.



NEIL O'BRIEN MP