



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

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The Rt Hon George Eustice MP
Secretary of State for Environment, Food and Rural Affairs
Department for Environment Food & Rural Affairs
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Dear George,

Thank you for your letter of 23 March replying to our questions about the Plant Health Provisional Framework. It clarified many of the issues the Committee were concerned about. We are now writing to provide our final recommendations.

We appreciate your letter provided more information about the various working groups involved in the framework. However, we remain extremely concerned that the arrangements surrounding working groups are unclear, complex, and overly bureaucratic. First, we are concerned that the Annex 3 diagram in the framework does not accurately represent how working groups relate and interact. In your Appendix I attachment, for example, you say that the Surveillance and Control sub-group is a sub-group to the Plant Health Outbreak Readiness Board, but that it also feeds “operations and recommendations ... to the field operation and diagnostics sub-group”. This relationship between sub-groups is not reflected in the diagram.

We recommend that the Annex 3 diagram is updated to accurately convey how working groups interact with one another.

We are also concerned that the information you provided in Appendix I actually provides limited information about what different working groups do. Common frameworks must be clear, concise, and transparent on the role and function of working groups. However, much of the information you supplied had unexpanded acronyms and unclear language. For example, the information about the Import Threats and Horizon Scanning sub-group claims the group has “ownership of the UKPHINS IT system”, without ever expanding this acronym or explaining what it is. The information given about the IT Preparedness sub-group says “It covers both BAU and outbreak working. This work will primarily be coordinated via the PH IT steering group which oversees the Plant Health Data System (PHDS) project.” Again, the BAU acronym is not expanded and there is no information about what the PH IT steering group or Plant Health Data System project is.

We recommend that the framework is updated to include the extended information on the framework's various working groups that you provided in your letter. We recommend that this information is revised to make it more clear about what various groups do. Acronyms should be used sparingly.

The Committee are very concerned that, as you outline in your letter, the majority of working groups were created after EU Exit. While we appreciate EU Exit has meant the UK has had to take on more functions previously conducted by the EU, having such a substantial number of working groups is overly bureaucratic and could prevent the framework from being efficient. One of the arguments the Prime Minister put forward when he campaigned in favour of EU Exit was that leaving the EU could reduce bureaucracy, but the frameworks resist this.

It is extremely important that frameworks are efficient and facilitate swift, effective decision-making. This is likely to be impeded when frameworks are overly bureaucratic. We recommend that the number of working groups needed in the framework is reviewed to ensure the processes outlined in the framework are more streamlined.

We are also concerned that working bodies can quickly become out of date or ineffective as a policy area changes and develops over time. We are concerned that there is no reference in the framework to an internal review to ensure the working groups outlined in the framework successfully meet the needs of the policy area.

We recommend that the framework is updated to include provisions for the number, remit and effectiveness working groups to be regularly reviewed.

We appreciate your response about stakeholders and how they are engaged. However, we remain unclear as to who can be engaged and when. You told us that "All groups are able to consult the Plant Health Advisory Forum and the Tree Health Policy Group ... The sub-groups to the UK PHRG, frequently engage with these groups, for example to inform options for new/amended measures against pests or to inform priorities for market access." This implies that the only stakeholders that could be consulted are the Plant Health Advisory Forum and the Tree Health Policy Group, rather than, for example, a union or charity.

Engagement with a wide range of stakeholders, including those outside Government and Whitehall, is essential for the development of effective frameworks. We recommend that the framework is updated to encourage stakeholder engagement from both the Plant Health Advisory Forum and Tree Health Policy Group, as well as external stakeholders.

We recommend that the Annex 3 diagram and framework text is updated to make clear that all working groups can engage with stakeholders – not just the UK NPPO.

The Committee was not clear on why the UK Plant Health Policy Group did not appear in the framework's Annex 3 diagram showing the UK Plant Health governance structure. You clarified that "The UK Plant Health Policy Group is referred to as the "Defra-DA Policy Working Group" in Annex 3 of the Framework."

We recommend that Annex 3 is corrected to refer to the UK Plant Health Policy Group rather than the Defra-DA Policy Working Group.

The Common Frameworks Programme will be most effective when it is consistent. We were very disappointed that you did not answer our question on why legal counsel was mentioned as an option in this particular framework but not in others. This unexplained inconsistency is not helpful. We were also confused by the response you provided that legal counsel should be “an option” to “mitigate triggering a formal dispute”. Page 18 of the framework states that “As set out in the dispute resolution process, any Party to the framework can seek legal counsel.” This implies legal counsel is something sought during the dispute resolution process – not something sought before it is triggered.

Clarity and consistency are essential to the Common Frameworks Programme, but this framework fails to provide in these areas when discussing legal counsel and the dispute resolution process. We recommend that the framework is updated to outline why it particularly mentions legal counsel when other frameworks do not, or that mention of legal counsel is removed from the framework.

If this recommendation is rejected, we recommend the framework is updated to make it clear whether legal counsel can be sought before or during the dispute resolution process.

The Committee is disappointed that you did not answer our question on whether or not the North-South Ministerial Council discussed this framework in its development. While we appreciate your response that Irish officials may attend a UK meeting every six months, this is not the level of engagement we deem necessary for a framework that has implications for the whole island of Ireland.

We recommend that the opinion and feedback of the Irish Government is sought on this common framework, and that the Irish Government is treated as a key stakeholder in future reviews of the framework.

While we recognise that the Plant Health and Pesticides Steering Group does not appear in the Annex 3 diagram as it is not part of the UK's Plant Health Service, we think this diagram should more clearly show all working groups related to the framework, even if they fall outside the remit of the UK Plant Health Service.

We recommend that the Annex 3 diagram is updated to show the interaction of all working groups relevant to the framework, rather than simply the working groups that are part of the structure of the UK Plant Health Service.

The Committee was disappointed to see that the process for agreeing exclusions from the UK Internal Market Act 2020 was not contained in the framework. We appreciate that in your letter you said that your officials would work closely with other government departments and the devolved administrations to see if the text could be included. We reiterate that the UK Internal Market Act exclusions process must be set out in relevant frameworks as paragraph 2b of the exclusions process guidance states. Failure to do so jeopardises respecting the autonomy of the devolved administrations within their areas of

competence. It should be clearly set out in relevant common frameworks as an essential process agreed for the wider Programme.

We recommend that the framework is updated to include text setting out the UK Internal Market Act exclusions process.

We are 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 the framework after the conclusion of the scheduled reviews.

We were concerned by the use of language on page 5. This was with respect to the UK Government facilitating the attendance of the devolved administrations at UK-EU meetings, where the agenda includes an item concerning implementation in an area of devolved competence. Currently, the text states that the UK Government “should facilitate” the attendance of the devolved administrations at such meetings. While international agreements is a reserved area, the implementation of international agreements remains devolved. Every effort should be made to respect the devolution settlements and ensure the devolved administrations are present at such meetings. This would also ensure adherence to the JMC principle that common frameworks will “lead to a significant increase in decision-making powers for the devolved administrations.”¹

We recommend that the framework is updated to state that the UK Government “will” facilitate the attendance of the devolved administrations at EU-UK meetings, where an agenda item concerns implementation in an area of devolved competence. This would ensure adherence to the JMC principles underpinning the Common Frameworks Programme and that the devolution settlements are respected.

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

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf