



Department
of Health &
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Baroness Andrews OBE
Chair, Common Framework Scrutiny Committee
House of Lords
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2nd November 2020

Dear *Lady Andrews,*

I would like to thank you for your letter of 20 October, concerning the Nutrition Related Labelling Composition, and Standards (NLCS) Common Framework. I am delighted to see that the House of Lords Common Frameworks Scrutiny Committee has been established, and that the Committee has swiftly begun its scrutiny of this framework.

Parliamentary scrutiny

My officials have worked closely with Whitehall colleagues and the devolved administrations to present each UK legislature with the NCLS Common Framework and I would like to apologise for any delay on our part. Parliamentary scrutiny is a key step in the delivery of frameworks and the framework's summary was shared with both the Commons Health Select Committee and the Lords Frameworks Scrutiny Committee to assist with your preparations. It is worth being clear that Framework summaries are not intended to be a mechanism to allow for early scrutiny, which I understand the Minister for Constitution and Devolution highlighted in her letter of 20 October. I am pleased to report that the UK Government and the devolved administrations have all now shared the Nutrition Labelling Composition and Standards Framework with their respective legislatures.

I understand the Committee may require some additional days for scrutiny. I would be happy to propose recommendations be shared on 18th November to align with the devolved administrations' timelines. Recommendations from all legislatures will be jointly considered and Committees will be updated on the agreed framework.

If in future there are any challenges around timings, I would encourage clerks to discuss this with us as soon as possible, and we will always endeavour to provide a workable solution. Given that this is part of a process that also operates across the devolved administrations and legislatures, I am sure you will appreciate the need for careful choreography.

The status of the framework

You requested clarity regarding the status of the framework and its dependency upon the underpinning concordat.

A provisional framework is a joint UKG-DA document completed for each active UK Common Framework policy area, which sets out the scope of the policy area under discussion, the governance of the framework and the agreed mechanism for implementing the framework (in this case, a non-legislative agreement). The NLCS provisional framework sets out planned arrangements for co-operation between officials in the Department for Health and Social Care (DHSC), Food Standards Scotland (FSS), Welsh Government (WG) and the Food Standards Agency (FSA).

The Concordat is the joint non-legislative agreement that will give effect to the NLCS framework governance arrangements such as the dispute resolution process. It operates in accordance with the principles outlined in the overarching intergovernmental Memorandum of Understanding¹ and is consistent with, and complemented by, other guidance on common working arrangements, notably the principles for common frameworks agreed at Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16 October 2017. At the point of the framework's final confirmation at JMC(EN) the Concordat will be formally agreed by ministers in each of the four administrations. Common frameworks concordats are not legally binding or enforceable.

Northern Ireland

The framework has been shared by Northern Ireland Civil Service officials with the Northern Ireland Executive. During the write round process the framework and concordat were each updated to reflect that the Northern Ireland Executive is now in place and has endorsed the JMC(EN) common frameworks principles; but retained the narrative explaining the input that officials had during its absence. The Northern Ireland Assembly is also in the process of scrutinising the provisional framework. My officials have been informed that the NIA committee is meeting on 05 November to discuss the framework. Whilst, to date, no revision of the framework has been suggested by the Northern Ireland Executive, my officials continue to work closely and collaboratively with the NI officials and those in Scotland and Wales, to ensure any requests that may come forward can be considered on a four-nation basis.

Scotland and Wales have also initiated scrutiny of this framework within their respective legislatures and expect to receive any comments by the 3rd week in November.

After the end of the transition period, on day 1, it is important to note that there is no change to the way in which goods relevant to this framework are regulated across the UK. As we approach the end of the transition period, I am mindful that while EU nutrition law will continue to be directly applicable in Northern Ireland, nutrition regulation will become an autonomous matter for each Appropriate Authority in England, Scotland and Wales. We have established strong working relationships with our colleagues in the devolved administrations throughout this process and already seek to work jointly on policy development.

¹ *Memorandum of Understanding and Supplementary Agreements Between the United Kingdom Government, the Scottish Ministers, the Welsh Ministers and the Northern Ireland Executive Committee, October 2013:*
<http://www.scotland.gov.uk/Resource/0043/00436627.pdf>

We do not currently anticipate any issues arising as a result of policy divergence at the end of the transition period. This is because, even within the current system of nutrition regulation, based on EU Directives and Regulations, there is already limited scope for divergence within the UK. For example: local enforcement is devolved and therefore an area where divergence is already possible, with longstanding separate arrangements in place that recognise the differing legal systems and arrangements for local government in the constituent nations of the UK.

The Internal Market Bill

The UK Internal Market Bill introduced into Parliament on 9 September, will guarantee that UK companies can continue to trade unhindered in every part of the UK. The Bill will not lower standards. The UK has some of the highest standards in the world on goods and some of the most robust standards on foods, with world-leading food, health and animal welfare standards.

You asked about specific areas of disagreement with Scottish Government officials. It is important to point out that there was no disagreement as such with regard to the future arrangements to enable the functioning of the UK Internal Market, but simply an acknowledgement that the wording in the Concordat around the functioning of the UK internal market may need to be revised following the ongoing review of the intergovernmental MoU on Devolution.

In terms of how this common framework will interact with or "link into" any future arrangements, such as the Internal Market Bill, the framework should support the functioning of the UK Internal Market.

The framework recognises that due to the devolved nature of nutrition policy, each nation has the ability to diverge from generally harmonised rules within their territory to protect consumers where risk assessment shows this is both necessary and proportionate. The UKIM Bill will mean that all nations of the UK will be free to act within their areas of competence provided they do so in a way that does not put up barriers to the smooth functioning of the internal market.

International Agreements

Regarding your question about the international relations section. My officials are working with the Foreign, Commonwealth & Development Office regarding international relations wording. Those discussions are ongoing; and I would like to assure you that this section will be updated once concluded.

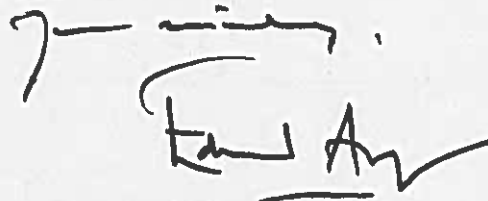
Future Reviews

As I have set out above, the framework will continue to be developed collaboratively over the coming weeks, in order to address those cross-cutting issues identified in your letter. The framework will then be presented again to the JMC(EN) Ministers for final approval to implement at the end of the Transition Period.

Thereafter, UKG and DA officials will convene, through the NLCS Policy Group established via the arrangements set out in the framework, to review it at the stated intervals. At each point there will be retrospective assessment, using information collected via quarterly reports, to establish whether it is achieving its stated goals, and supporting efficient administration of the relevant processes required by law; or whether it requires further refinement or revision. I thank you for highlighting the unintentional misalignment of the review periods set out within the framework and concordat and will ensure that matter is addressed.

I very much welcome the Committee's continued interest in the framework and would be happy to invite further opportunities to review the updated framework after it has been implemented.

Should you have any further questions following the session regarding this framework, I would of course be more than happy to answer them.

A handwritten signature in black ink, appearing to read 'Edward Argar', with a stylized flourish at the end.

EDWARD ARGAR MP