

Summary of Proposed Common Framework on Resources and Waste Policy

1. Introduction

Officials from the UK Government (UKG) and Devolved Administrations (DAs) have been jointly developing a UK wide Common Framework for Resources and Waste, which includes arrangements for joint working from 1 January 2021, following the end of the Transition Period.

The purpose of this summary is to provide information on the progress made on the development of joint working arrangements in the UK in preparation for the end of the Transition Period. The Framework is provisional and will be refined and finalised after the end of the Transition Period.

2. Background on Common Frameworks

EU law currently creates a legal Framework across the UK in a range of policy areas that are devolved. The four UK Administrations have agreed to work together to establish common approaches (Common Frameworks) in areas which are currently governed by EU law, but that are otherwise within areas of competence of DAs.

Frameworks are to be voluntarily agreed between the administrations and will set out the governance arrangements in those policy areas where action is needed to maintain a common approach and/or manage divergence across the UK or GB.

Frameworks may consist of common principles or goals, a collective evidence base, harmonisation of approach, mechanisms for coordination and cooperation or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented in several ways, including legislation, and/or non-legislative mechanisms such as Concordats, or other means, depending on the context in which the Framework is intended to operate. These Common Frameworks provide a number of benefits, including making it simpler for businesses from different parts of the UK to trade with each other, thereby enabling a functioning UK internal market, and helping the UK to fulfil its international obligations.¹

The Joint Ministerial Committee (EU Negotiations) (JMC(EN)) on 16 October 2017 agreed a set of [principles](#) (See linked document) that would determine the creation of Common Frameworks and assess the impact that future divergence would have. These principles have been included in the development of the Resources and Waste Common Framework.

3. Scope of the Framework

The scope includes the following devolved policy areas: Producer Responsibility (including the Extended Producer Responsibility areas), mining waste, technical standards, waste classification including hazardous waste, data reporting and monitoring.

Product standards regulation is mainly reserved to the UK Government, but there are some exceptions which will be within scope of the Framework.

¹ For further information on Common Frameworks, please refer to the UK Government's recent reports:

- Eighth Parliamentary Report: [The European Union \(Withdrawal\) Act and Common Frameworks report \(26 March to 25 June 2020\)](#)
- Framework Analysis: [Framework Analysis 2020: Breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland](#)

Decision-making on reserved matters, such as International Shipment of waste², will continue to sit with the UK Government in line with the devolution settlements, however the UK Government will involve the Devolved Administrations as fully as possible in decision making on non-devolved matters which impact on devolved matters, or have a distinctive importance to a devolved nation.

Regulation of some waste streams, notably through the Producer Responsibility regimes, currently operate on a UK-wide basis, largely underpinned by GB and equivalent NI legislation, or UK-wide legislation.

The Framework also recognises that as waste is a devolved area of competence, each nation has its own strategies, waste management plan and waste prevention programme. Divergence in policy approaches therefore exist in relation to areas such as the approach to recycling in Wales (including statutory recycling targets for local authorities), dedicated circular economy strategy in Scotland and Wales, regulations requiring businesses to recycle (in place in Scotland, to be introduced in Wales and proposed for England). Where EU Directives set minimum standards/targets etc., different parts of the UK have been able to set higher standards or targets if they wanted to, and often have done for waste issues.

The agreement will develop over time to include any other areas of waste policy which become necessary or appropriate to include.

4. Interdependencies

There are links to other policy areas including chemicals, water quality, air quality, marine, agriculture, decarbonisation, international and domestic trade, and arrangements for the UK internal market. Some of these policy areas will have their own UK Common Frameworks. There will be further work to look at the interactions between different Frameworks and to consider arrangements where there are interdependencies.

The value chain for waste is complex. Wastes frequently move across borders to be managed (legally or illegally) and some waste materials and evidence of recovery are traded as a commodity. Waste facilities can straddle borders or may be mobile operations that operate across the UK. A pollution incident caused by a facility in one country may impact on the environment/health in another. There is a need to provide for joint working between the four governments and to ensure that the regulatory agencies can work together (enforcement, research, strategies etc.).

5. Proposal

The Framework will have an associated Concordat (a non-legislative UK Wide agreement between the administrations), establish a working group(s) to facilitate the approach to decision making, encourage inter-administration information sharing (taking into account Data Protection laws), set out clear principles and processes for decision making, have a process for dispute prevention and resolution, include a process for stakeholder engagement, and include arrangements for developing the UK position on reserved matters.

The requirement to transpose European legislation has resulted in a broadly consistent approach to the management of waste and resources across the UK. The Framework will initially be underpinned by retained EU law and minimum standards to ensure day one operational readiness. This approach will evolve over time, following UK wide discussions, to meet future administration specific or UK wide policy.

² The movement of waste between Wales and Scotland, and Northern Ireland (including those which are in furtherance of the UK's obligations under the Northern Ireland Protocol) are a matter of devolved competence.

The Framework will cover the key areas covered by the current EU Framework and support the consideration of a common approach for future developments, whilst recognising the flexibility for each nation to develop individual policy, legislation etc.

6. Will anything change for Stakeholders?

There will be no immediate changes for stakeholders as a result of this Framework. The Framework will provide governance structures and consensus-based processes to ensure that, where beneficial, the current principles of working together on UK wide approaches are maintained. This should ensure that stakeholders continue to see the benefits of joint approaches, while the ability for divergence is retained in line with the devolution settlements, recognising that divergence can provide key benefits such as driving higher standards and generating innovation and improved standards, while taking account of its impact on the functioning of the UK internal market.

7. Governance and ways of working

A Concordat will provide the non-legislative mechanism to underpin the Resources and Waste Common Framework. It will set out the principles of engagement, establish an approach for co-operation between the parties, and will operate in accordance with the principles outlined in the overarching intergovernmental Memorandum of Understanding on Devolution.

Key points:

- I. There will be clear principles and a process for decision making.
- II. Parties will meet at regular intervals (quarterly). Outside of the meetings, policy officials will be in contact with their equivalents in the other nations on a subject basis.
- III. Sharing of information between nations will be essential to allow effective decision making and will take place regularly.
- IV. Administrations will give advance notification to the other administrations of policy developments that might impact on other nations.
- V. There will be consideration of the need to formalise or expand existing UK arrangements in order to cover the gaps that may be created by the loss of access to arrangements such as advisory groups or research reporting that we have previously had access to via the EU.

8. Dispute prevention and dispute resolution

Governance arrangements set out in the Framework will help to avoid potential disputes. Where a difference in approach which impacts on another part of the UK is proposed, and cannot be resolved through initial discussions, the dispute resolution process may then be triggered. This may occur where concerns remain that the proposed action by one or more administrations could lead to a significant negative impact on certain issues such as the functioning of the UK internal market, compliance with international obligations, negotiation of new trade agreements, or management of common resources.

Before proceeding to formal dispute resolution, all efforts would be made to resolve and escalate the issue through the usual governance structure including the Inter-Ministerial Group (IMG-EFRA).

Using the dispute resolution process there will be the opportunity to consider and review the evidence and issues further, and where appropriate to introduce new expertise or evidence on the impacts and benefits. This could include further consideration of measures to mitigate the impact on stakeholders, the environment, and the UK internal market. Additionally, it should be borne in mind that the Framework is not intended to prevent future policy development or legislative change, but rather to manage it in ways that avoid negative impacts.

9. Next Steps.

The UK Government and Devolved Administrations are continuing to work together to develop the detailed proposals for the Resources and Waste Common Framework. The development of the Framework is dependent on some significant cross-cutting dependencies, including operationalisation

of the Northern Ireland Protocol, the outcome of trade negotiations with the EU and rest of the World and any future arrangements in relation to the UK internal market.

It is anticipated that provisional agreement to the Framework will be sought from portfolio Ministers in the four administrations and confirmed at JMC(EN) by the end of the Transition Period for implementation on the 1st January 2021. Further development of the provisional Framework, including scrutiny by the four legislatures of the UK and further engagement with stakeholders, will be undertaken in 2021. Following this, the final Framework will be agreed by portfolio Ministers in the four administrations and confirmed at JMC(EN).

10. Comments

If you have any comments or would like further information, please contact Defra or the relevant contact from the devolved administrations listed below.

Defra: Waste-EUExit@defra.gov.uk

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