



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
Seacole Building
2 Marsham St
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Dear George,

Thank you for your letter of 15 March replying to questions about the Fisheries Management and Support Framework Outline Agreement (FOA) and Memorandum of Understanding (FFMoU). It provided helpful answers to many of the Committee's queries. We are now writing to provide our final recommendations.

We welcome your clarification with regards to the structure of the Fisheries Management and Support common framework. It is helpful to now know the common framework itself is not the single document that combines the FOA and the FFMoU, but in fact is also made up of the other separate documents, including the Fisheries Act, the Joint Fisheries Statement (JFS), the Fisheries Management Plans (FMPs), the Operational Agreements (OAs), the FFMoU, and the FOA. Nevertheless, we are concerned that this structure was not made sufficiently clear, as set out in the FOA and FFMoU document. On the common frameworks GOV.UK page, all that is published for Fisheries Management and Support is the single document containing the FOA and FFMoU.

We recommend that the FOA and FFMoU are reviewed to make clearer the structure of the Fisheries Management and Support common framework. The common frameworks GOV.UK page should also be updated to ensure that the other separate documents that make up the common framework are published, and listed alongside, the FOA and FFMoU document.

Your letter confirmed that the Fisheries Senior Steering Group (SSG) is currently facilitating discussion between senior officials in DEFRA and the devolved administrations, and not any other similar forum or structure.

We recommend that the FOA and FFMoU are updated to state that the SSG is the active forum for discussion between senior officials in DEFRA and the devolved administrations, and that references to "or a similar forum", and "or a similar structure" are removed.

Your letter clarified the difference between the role of senior officials in the SSG and the Senior Officials Programme Board (SOPB).

We recommend that the FOA and FFMoU are updated to set out clearly the difference between the role of the SSG and the SOPB, stating that the SOPB has a wider remit that oversees engagement between the four governments in areas that span across the Environment, Food and Rural Affairs portfolio; and that it provides broader coordination, oversight, and direction to all DEFRA-devolved government groups.

Now we have a clearer understanding of the structure of the common framework, we accept that the FOA is there to summarise and provide context to the other documents. We also welcome that the other documents that make up the common framework are actively managed and have robust review processes, and that the FOA will be revised when the other documents are updated. However, we believe that this only strengthens the need for a coordinated review of the functioning of the common framework as a whole.

We recommend that the functioning of the Fisheries Management and Support common framework should be regularly reviewed as a whole, and the FOA be subject to regular updates where relevant to reflect changes made to the other documents within the common framework.

We were concerned by the use of language in the FOA on page 9, and from page 30 within the FFMoU. 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 text in the FOA and FFMoU 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.

The Committee was again disappointed to see that the process for agreeing exclusions from the UK Internal Market Act 2020 was not contained in the FOA and FFMoU. We appreciate that in your 10 March 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

¹ Page 5, [Frameworks Analysis 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

areas of competence. It should be clearly set out in relevant common frameworks as an essential process agreed for the wider Programme. We are writing to the devolved administrations to seek their views on this matter.

We recommend that the FOA and FFMoU are updated to include text setting out the UK Internal Market Act exclusions process.

We are disappointed to note the absence in the FOA and FFMoU of any commitments on ongoing engagement with Parliament on the functioning of the common framework as a whole. While component documents such as the JFS will be subject to regular reporting, this is not sufficient. 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 whole common frameworks.

We recommend that the FOA and FFMoU 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 common framework as a whole after the conclusion of scheduled reviews.

Regarding the Subsidy Control Bill and the OA on Fisheries Funding, we welcome your assurances that officials in DEFRA are working closely with the devolved administrations in drafting the Funding Chapter of the OA. We also note that DEFRA will continue to engage with the devolved administrations as the Bill progresses through Parliament. However, we remain concerned about how provisions in the Bill can be harmonised with the explicit equality of the Parties provided for in the Fisheries Management and Support common framework.

We recommend that the Government carefully consider how the Subsidy Control Bill might contradict the aims of common frameworks and impede their successful operation. Decisions made through cooperation between the devolved powers via a common framework should take priority in areas where the Subsidy Control Bill is relevant.

We recommend that the FOA and FFMoU is updated to include that reviews should analyse how the common framework as a whole is interacting with the Subsidy Control Bill. This information should be presented at the regular updates to legislatures we have recommended.

We also note in your letter that you provide no clear timeline for publication of the Operational Agreements (OAs). They will clearly be a key component of the common framework. Consequently, we can only consider the Fisheries Management and Support Provisional Framework to be partially published.

We recommend that when the OAs published, they are also laid before the legislatures for formal scrutiny as part of the Common Frameworks Programme.

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