

# Common Frameworks

May 2023



# 1. Background

## The UK Common Frameworks programme

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1. Following the UK's decision to leave the EU, the UK Government and the devolved governments in Wales, Scotland and Northern Ireland agreed to create common UK-wide approaches – or 'frameworks' – in policy areas that were governed by EU law and that are within the competence of the devolved governments or legislatures. In 2017, the UK Government and the devolved governments provided a definition of a common framework:

*"A framework will set out a common UK, or GB, approach and how it will be operated and governed. This may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented by legislation, by executive action, by memorandums of understanding, or by other means depending on the context in which the framework is intended to operate."*

2. Common frameworks were deemed by UK Government and the devolved governments as necessary to:

- enable the functioning of the UK internal market, while acknowledging policy divergence;
- ensure compliance with international obligations;
- ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
- enable the management of common resources;
- administer and provide access to justice in cases with a cross-border element; and

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<sup>1</sup> Joint Ministerial Committee (EU Negotiations), 16 October 2017, Communiqué

- safeguard the security of the UK.<sup>2</sup>

**3.** In 2020, the UK Government published a breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland, in which it concluded that there were 40 policy areas which required the creation of a common framework.<sup>3</sup> Further consideration found that there were 33 relevant policy areas, of which 26 intersect with matters within devolved competence in Wales.<sup>4</sup>

**4.** Provisional common frameworks began to be agreed by the UK Government and the devolved governments in 2020, while discussions between them continued on cross-cutting issues which would underpin the programme. These issues included the common frameworks' interaction with the *United Kingdom Internal Market Act 2020* and the Northern Ireland Protocol.<sup>5</sup>

**5.** In 2021, agreement was reached between the governments in respect of the cross-cutting issues underpinning the common frameworks programme. They also committed to future reporting on the frameworks.<sup>6</sup>

**6.** By March 2022, of the 26 frameworks which apply to Wales:

- 1 had been finalised;
- 23 were in operation on a provisional basis; and
- 2 were in development.<sup>7</sup>

## **Scrutiny of common frameworks**

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**7.** The legislatures of the UK have been undertaking scrutiny of provisional common frameworks as they have been published, and have been making recommendations on their content to their respective governments.

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<sup>2</sup> Joint Ministerial Committee (EU Negotiations), 16 October 2017, Communiqué

<sup>3</sup> UK Government, [Frameworks Analysis 2020](#), September 2020

<sup>4</sup> UK Government, [The European Union \(Withdrawal\) Act and Common Frameworks: 26 September 2020 to 25 December 2020](#), March 2021, paragraph 1.34

<sup>5</sup> [Letter from Chloe Smith MP, Minister of State for the Constitution and Devolution, to the Chair of the House of Lords Common Frameworks Scrutiny Committee](#), 23 December 2020

<sup>6</sup> [Letter from the Counsel General and Minister for the Constitution](#), 19 November 2021

<sup>7</sup> Welsh Government, [Written Statement by the Counsel General and Minister for the Constitution: Common Frameworks – Summary of Recent Progress](#), 30 March 2022

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**8.** The UK Government and the devolved governments are expected to agree final versions of common frameworks for publication after they have been subject to scrutiny by legislatures.

**9.** However, the UK Government has stated that “final implementation of Common Frameworks is not possible without a Northern Ireland Executive in place” and “scrutiny cannot be completed without the involvement of the Northern Ireland Assembly.”<sup>8</sup> The Welsh Government has similarly stated that the governments of the UK “will want to understand the views of all legislatures before deciding on changes to individual Frameworks” as a result of recommendations made by legislatures.<sup>9</sup>

**10.** Each legislature in the UK has adopted a different approach to the scrutiny of common frameworks. For example, the House of Lords has established a dedicated Common Frameworks Scrutiny Committee to undertake both the scrutiny of the common frameworks programme, and the scrutiny of individual provisional common frameworks. It has published two reports to date.<sup>10</sup>

**11.** In the Senedd, the following policy committees have been undertaking scrutiny of individual frameworks which apply to Wales:

- the Climate Change, Environment, and Infrastructure (CCEI) Committee;
- the Economy, Trade, and Rural Affairs (ETRA) Committee;
- the Health and Social Care (HSC) Committee; and
- the Public Accounts and Public Administration (PAPA) Committee.

**12.** These committees have made recommendations to the Welsh Government on the content of the frameworks; the relevant reports and correspondence are listed in the Annex.

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<sup>8</sup> UK Government, [Government Response to the House of Lords Common Frameworks Scrutiny Committee report: ‘Common Frameworks: an unfulfilled opportunity?’](#), November 2022, paragraph 13

<sup>9</sup> Welsh Government, Written Statement by the Counsel General and Minister for the Constitution: Common Frameworks – Summary of Recent Progress, 30 March 2022

<sup>10</sup> House of Lords, [Common Frameworks Scrutiny Committee: Publications](#)

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**13.** Whilst policy committees have been undertaking scrutiny of individual provisional frameworks, we have been maintaining oversight of the overall common frameworks programme as it applies in Wales.

**14.** As the majority of provisional common frameworks which apply to Wales have now been subject to Senedd scrutiny, we have decided to make recommendations to the Welsh Government in respect of the cross-cutting issues which have arisen from such scrutiny to date.

## 2. Implications for devolved policymaking

**15.** All Senedd committees which have considered common frameworks have raised concerns about their potential to limit the practical role of the Welsh Government and Senedd in law- and policy-making for Wales.

**16.** The ETRA Committee has noted concerns from its stakeholders about the impact of frameworks on the legislative competence of the Senedd and the executive competence of the Welsh Government. It stated:

*“... it is not clear how the common frameworks can set processes for the governments to make decisions jointly about how to use their powers, while simultaneously having no impact on how the Senedd and Welsh Government exercise those powers.”<sup>11</sup>*

**17.** The HSC Committee and the CCEI Committee have both recommended that the Welsh Government should explain how it will ensure frameworks will not limit the role of the Welsh Government, the Senedd or stakeholders in Wales when making law or policy for Wales.<sup>12</sup>

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<sup>11</sup> Economy, Trade and Rural Affairs Committee, [Common Frameworks](#), December 2022, paragraph 30

<sup>12</sup> Health and Social Care Committee, [Letter from the Chair to the Minister for Health and Social Services](#), 21 March 2022, Recommendation 4; Health and Social Care Committee, [Letter from the Chair to the Deputy Minister for Mental Health and Wellbeing](#), 14 June 2022, Recommendation 3; Climate Change, Environment, and Infrastructure Committee, [Common Frameworks – Report 1](#), May 2022, Recommendation 11

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- 18.** The PAPA Committee has recommended that the Welsh Government should set out any potential limits to its regulatory autonomy as a result of common frameworks.<sup>13</sup>
- 19.** The ETRA Committee has recommended that the Welsh Government seeks intergovernmental agreement to amend frameworks to clarify that changes to law and policy, in areas where the Welsh Government had flexibility while the UK was an EU Member State, should not be bound by requirements for joint decision-making or by the dispute resolution process.<sup>14</sup> The CCEI Committee and the HSC Committee have made similar recommendations.<sup>15</sup>
- 20.** The ETRA Committee has shared concerns it has heard about a risk of limitations on the power of legislatures, for example, if parliamentarians tabled proposals for legislation which had not been subject to the common frameworks process.<sup>16</sup>
- 21.** The CCEI Committee has highlighted the issue of amendments being made to bills which may conflict with joint decisions made by governments, and also stated that it is unclear how the frameworks address conflicting parliamentary decisions. It recommended that the Welsh Government should provide an explanation on this matter, and to provide clarity on the consequences of a decision by the Senedd which is incompatible with intergovernmental decisions made through the framework.<sup>17</sup>

## Divergence

- 22.** The PAPA Committee has recommended that the Welsh Government should set out how it will ensure that the public procurement framework offers no less scope for divergence than would have been possible in the EU.<sup>18</sup>

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<sup>13</sup> Public Accounts and Public Administration Committee, [Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government](#), 23 June 2022, page 2

<sup>14</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 10

<sup>15</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 3; Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 2

<sup>16</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, paragraph 7

<sup>17</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 4

<sup>18</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 2

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**23.** Similarly, the ETRA Committee has recommended that the Welsh Government should seek intergovernmental agreement to ensure that frameworks set out clearly the areas where divergence is acceptable, “in a clear consistent, and accessible way.”<sup>19</sup>

**24.** The CCEI Committee has also noted that the frameworks have not been “stress tested”, and therefore it is not possible to determine the “appetite for divergence” acceptable to all four governments, or how successful the frameworks will be in managing divergence.<sup>20</sup>

**Recommendation 1.** The Welsh Government should explain how it will ensure common frameworks will not limit the role of the Welsh Government, the Senedd, or stakeholders in Wales when making law and policy for Wales.

**Recommendation 2.** The Welsh Government should seek intergovernmental agreement to amend each common frameworks to clarify that changes to law and policy, in areas where the Welsh Government had flexibility while the UK was an EU Member State, should not be bound by requirements for joint decision-making or by the dispute resolution process.

**Recommendation 3.** The Welsh Government should seek intergovernmental agreement so that each common framework clearly sets out in which areas divergence will not be acceptable.

## 3. Stakeholder engagement

### Role of stakeholders in policy-making

**25.** Senedd committees scrutinising common frameworks have raised concerns about ensuring there is no “dilution” of, or limit to the role of parliaments or stakeholders in law- and policy-making.<sup>21</sup>

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<sup>19</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 14

<sup>20</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, paragraph 14

<sup>21</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 6; Climate Change, Environment, and Infrastructure Committee, Letter from the Chair to the Minister for Climate Change, 18 May 2022, paragraph 17; Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 2

**26.** The ETRA Committee has noted that the frameworks do not generally set out “defined routes” for stakeholders to input into intergovernmental decision-making.<sup>22</sup>

**27.** The CCEI Committee has recommended that the Welsh Government should explain when and how stakeholders will feed into the decision-making process in the frameworks.<sup>23</sup>

**28.** Additionally, the ETRA Committee has emphasised that the Welsh Government should ensure that the views of stakeholders on the provisional frameworks are considered before the frameworks are finalised.<sup>24</sup>

**29.** The House of Lords Common Frameworks Scrutiny Committee, in both its reports on common frameworks,<sup>25</sup> said the frameworks are weakened by a lack of stakeholder consultation.

**Recommendation 4.** The Welsh Government should ensure that each common framework clear sets out when and how stakeholders will feed into its decision-making process.

## Transparency and review

**30.** Some committees have raised the need for more clarity and transparency for stakeholders regarding law- and policy-making in relation to the frameworks.

**31.** The ETRA Committee has recommended that the Welsh Government make it clear to the Senedd and stakeholders when policy is being “taken through” a common framework,<sup>26</sup> and to make it clear if proposals for legislation or policy changes result from the common frameworks’ decision-making processes.<sup>27</sup>

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<sup>22</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, paragraph 31

<sup>23</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 11

<sup>24</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 1

<sup>25</sup> House of Lords, [Common Frameworks Scrutiny Committee: Publications](#)

<sup>26</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 8

<sup>27</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 9

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**32.** Similarly, the PAPA Committee has stated that the Welsh Government should commit to ongoing stakeholder engagement if legislation which falls within the scope of the frameworks is introduced into the Senedd.<sup>28</sup>

**33.** The ETRA Committee has also recommended that the Government should engage with stakeholders to ensure the scope of frameworks is understood.<sup>29</sup>

## **Review and operation of the frameworks**

**34.** The ETRA Committee, the PAPA Committee, and the CCEI Committee have all recommended that the Welsh Government should seek intergovernmental agreement to ensure that stakeholder consultation is undertaken during the review of each common framework and its subsequent amendment.<sup>30</sup>

**35.** The HSC Committee has echoed this recommendation,<sup>31</sup> and remarks made by the House of Lords Common Frameworks Scrutiny Committee,<sup>32</sup> and has recommended that there must be “ongoing, open and meaningful engagement” with stakeholders on the operation of the frameworks.<sup>33</sup>

**Recommendation 5.** The Welsh Government should make it clear to the Senedd and stakeholders when policy is being developed through a common framework, and if proposals for legislation or policy changes arise from a common framework’s decision-making process.

**Recommendation 6.** The Welsh Government should seek intergovernmental agreement to ensure that stakeholder consultation is undertaken during the review of each common framework and its subsequent amendment.

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<sup>28</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 2

<sup>29</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 13

<sup>30</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 33; Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 4; Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 13

<sup>31</sup> Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 6

<sup>32</sup> [Letter from the Chair of the House of Lords Common Frameworks Scrutiny Committee to the Minister of State for Health](#), 14 December 2021

<sup>33</sup> Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Paragraph 24

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## 4. Quality of common frameworks

**36.** The ETRA Committee has found understanding the framework documents to be “challenging”,<sup>34</sup> and noted similar concerns raised by the House of Lords Common Frameworks Scrutiny Committee<sup>35</sup> and the Northern Ireland Assembly Agriculture, Environment and Rural Affairs Committee.<sup>36</sup> The Scottish Parliament Net Zero, Energy and Transport Committee has also called for the language used in the finalised frameworks to be “as plain and jargon-free as possible”.<sup>37</sup> Similarly, the Northern Ireland Assembly Committee for the Executive Office stated that “documentation received for some frameworks has lacked detail or the information was to be made available elsewhere, making scrutiny difficult”.<sup>38</sup> It highlighted “very technical language, which [requires] further explanation”.<sup>39</sup>

**37.** Senedd committees have also raised wider concerns about the complexity of the governance structures established by individual common frameworks.<sup>40</sup> The ETRA Committee has recommended that individual frameworks should include clear terms of reference for all of their working groups, and diagrams showing the relationship between them.<sup>41</sup> Similarly, the CCEI Committee has stated that, in parts, the frameworks it has considered are “difficult to follow and lack clarity”, and has recommended that the Welsh Government should improve the accessibility of the frameworks.<sup>42</sup>

**38.** The ETRA Committee has noted significant errors in several common frameworks and inconsistencies in the approach taken across different

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<sup>34</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Paragraph 18

<sup>35</sup> House of Lords Common Frameworks Scrutiny Committee, [Common Frameworks: an unfulfilled opportunity?](#), paragraphs 156–157, 163–166

<sup>36</sup> Northern Ireland Assembly Agriculture, Environment and Rural Affairs Committee, [Common Framework Position Paper Animal Health and Welfare](#), paragraph 43

<sup>37</sup> Scottish Parliament Net Zero, Energy and Transport Committee, [Letter to the Minister for Environment and Land Reform, 16 November 2022](#), page 2

<sup>38</sup> Northern Ireland Assembly Committee for the Executive Office, [Scrutiny of the common frameworks in the Northern Ireland Assembly](#), March 2022, page 1

<sup>39</sup> Northern Ireland Assembly Committee for the Executive Office, [Scrutiny of the common frameworks in the Northern Ireland Assembly](#), March 2022, page 1

<sup>40</sup> See for example, Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Paragraph 19

<sup>41</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 5

<sup>42</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Paragraph 10

frameworks “without obvious reason”.<sup>43</sup> It has suggested that these problems raise the question of how serious the four governments have approached the development of common frameworks, the extent to which they are used to shape decision-making, and how the Senedd and stakeholders will be able to understand how they are working in practice.<sup>44</sup>

**Recommendation 7.** The Welsh Government should ensure that a full quality assurance exercise is undertaken ahead of the publication of each finalised common framework.

## 5. Retained EU law

**39.** All Senedd committees which have considered common frameworks have raised concerns about the UK Government’s plans for retained EU law.

**40.** The CCEI Committee has raised concerns about the potential impacts of the Retained EU Law (Revocation and Reform) Bill on future Welsh policy and legislation, and the risk of intergovernmental disagreements.<sup>45</sup>

**41.** The PAPA Committee has requested for the Welsh Government to confirm whether a process for changes to retained EU law which apply under the frameworks has been agreed, and what that process involves.<sup>46</sup> Similarly, the ETRA Committee and the HSC Committee have recommended that the Welsh Government should confirm that proposed changes to retained EU law within the scope of frameworks will be taken through the relevant framework processes.<sup>47</sup> The HSC Committee has also sought a commitment from Welsh Government for the Senedd to be notified of such proposals.<sup>48</sup>

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<sup>43</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Paragraph 21

<sup>44</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Paragraph 24

<sup>45</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Paragraph 21

<sup>46</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 6

<sup>47</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 21; Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 18

<sup>48</sup> Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 19

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**Recommendation 8.** The Welsh Government should provide the Senedd with information about the process for proposed changes to retained EU law which fall within the scope of each common framework.

## 6. Dispute resolution mechanisms

**42.** Senedd committees have raised concerns about the impact of the dispute avoidance processes set out in the frameworks which they have considered, and in particular their impact on timely policy-making.

**43.** The PAPA Committee and the HSC Committee have both raised concerns about potential delays caused by these processes, and have recommended that the Welsh Government should set out its view on whether time limits should be specified in the dispute avoidance processes.<sup>49</sup>

**44.** The ETRA Committee and the CCEI Committee are similarly concerned that dispute avoidance processes could lead to delays to the introduction of Welsh policy and legislation.<sup>50</sup>

**45.** Senedd committees have also highlighted that individual frameworks do not reference the dispute avoidance and resolution process set out in the outcome to the review of intergovernmental relations.<sup>51</sup> The PAPA Committee, the HSC Committee and the ETRA Committee have all recommended that the frameworks be updated to reflect the established dispute avoidance and resolution process.<sup>52</sup>

**Recommendation 9.** The Welsh Government should seek intergovernmental agreement to update each common framework to reflect the Dispute Avoidance

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<sup>49</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 2; Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 9

<sup>50</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Paragraphs 56-58; Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Paragraph 25

<sup>51</sup> UK Government, [Review of intergovernmental relations, Annex D: Dispute Avoidance and Resolution Process](#)

<sup>52</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 3; Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 10; Health and Social Care Committee, Letter from the Chair to the Deputy Minister for Mental Health and Wellbeing, June 2022, Recommendation 8; Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 16

and Resolution Process set out in the outcome of the review of intergovernmental relations.

**Recommendation 10.** The Welsh Government should set out its view on whether time limits should be specified in the dispute avoidance processes contained within each common framework.

## 7. Transparency

**46.** The ETRA Committee and the HSC Committee have both recommended that the Welsh Government should seek intergovernmental agreement for each common framework which they have considered to provide that legislatures are notified of disputes which have been escalated to ministerial level.<sup>53</sup>

**47.** The CCEI Committee has echoed these recommendations, and in addition has recommended that legislatures should be notified of the outcome of disputes.<sup>54</sup>

**Recommendation 11.** The Welsh Government should seek intergovernmental agreement to ensure that each common framework provides that legislatures are notified of a dispute which have been escalated to ministerial level, and are notified of the outcomes of a dispute.

## 8. Reporting and review

**48.** The HSC Committee has noted that the frameworks it has considered contain limited information about ongoing reporting to legislatures and stakeholders.<sup>55</sup> Similarly, the CCEI Committee has raised concerns about the lack of reference within the frameworks it has considered to ongoing engagement by

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<sup>53</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 19; Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 8

<sup>54</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 8

<sup>55</sup> Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Paragraph 15

legislatures, and the absence of mechanisms to support the scrutiny of frameworks once they are operational.<sup>56</sup>

**49.** The PAPA Committee has recommended that the Welsh Government should seek intergovernmental agreement to publish any joint reports on the operation of each framework, and if such agreement is not secured, the Welsh Government should unilaterally publish annual reports.<sup>57</sup>

**50.** The ETRA Committee has also stated that the Welsh Government should seek intergovernmental agreement to ensure regular reporting on the operation of frameworks.<sup>58</sup> Similarly, the House of Lords Common Frameworks Scrutiny Committee has stated that a process for ongoing reporting to legislatures should be developed “as a matter of urgency”.<sup>59</sup>

**51.** The CCEI Committee has specified the minimum levels of content it believes should be included within annual reports, including the inclusion of detail on divergence, constraints on devolved competence, and compliance with international obligations.<sup>60</sup>

**52.** The PAPA Committee is of the view that reports by the Welsh Government on the frameworks should include relevant commentary on UK-EU relations and international activity.<sup>61</sup>

**Recommendation 12.** The Welsh Government should seek intergovernmental agreement to ensure the regular reporting to legislatures on the operation of each common framework. If such agreement is not secured, the Welsh Government should regularly report to the Senedd on the ongoing operation of each common framework.

**53.** All Senedd committees which have considered common frameworks have made similar recommendations for parliamentary engagement during their

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<sup>56</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, paragraph 28

<sup>57</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 4

<sup>58</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 32

<sup>59</sup> House of Lords Common Frameworks Scrutiny Committee, Common Frameworks: an unfulfilled opportunity?, paragraph 192

<sup>60</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 6

<sup>61</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 5

review and subsequent amendment.<sup>62</sup> The House of Lords Common Frameworks Scrutiny Committee has recommended that legislatures should be kept up to date on the ongoing functioning of all frameworks after the conclusion of scheduled reviews.<sup>63</sup>

**Recommendation 13.** The Welsh Government should seek intergovernmental agreement to ensure that each common framework provides for engagement with legislatures during its review and subsequent amendment, and for reporting to legislatures on the conclusion of a review.

**Recommendation 14.** The Welsh Government should regularly report to the Senedd on the delivery of the recommendations made in this report, in particular those which require intergovernmental agreement.

## 9. Protocol on Ireland-Northern Ireland

**54.** Under the Protocol on Ireland-Northern Ireland, some EU law continues to apply to, and in, Northern Ireland, which has led to concerns being raised about the impact of divergence between Great Britain and Northern Ireland.

**55.** In February 2023, the UK Government and the EU Commission agreed the Windsor Framework to make changes to the Protocol.<sup>64</sup> It remains to be seen whether the frameworks will be subject to review as a result of the agreement, and whether it will have an impact on the common frameworks programme as a whole.

**56.** The ETRA Committee has recommended that the Welsh Government should keep the Senedd informed of measures agreed to lessen the detrimental impacts of divergence between Great Britain and Northern Ireland arising as a

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<sup>62</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 33; Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 10; Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 4; Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 7; Health and Social Care Committee, Letter from the Chair to the Deputy Minister for Mental Health and Wellbeing, June 2022, Recommendation 4

<sup>63</sup> House of Lords Common Frameworks Scrutiny Committee, Common Frameworks: an unfulfilled opportunity?, paragraph 193

<sup>64</sup> UK Government, [Policy paper: The Windsor Framework](#), 27 February 2023

result of the Protocol in policy areas subject to common frameworks.<sup>65</sup> It has recommended that standardised wording be adopted across frameworks in respect of the review of divergence in Northern Ireland, and whether it would be in the interests of the governments of Great Britain to follow suit.<sup>66</sup>

**57.** The HSC Committee has similarly recommended that frameworks should include additional detail on when changes introduced in Northern Ireland through the Protocol will be considered through the frameworks.<sup>67</sup> Furthermore, it asked the Welsh Government to explain how it will assess the risks and benefits for Wales of ‘keeping pace’ with changes in Northern Ireland and the EU; and what position it will take in intergovernmental discussions on these.<sup>68</sup>

**58.** The ETRA Committee has agreed with a recommendation made by the House of Lords Common Frameworks Scrutiny Committee that frameworks which intersect with the Protocol should provide for frequent information-sharing between parties on forthcoming EU legislation.<sup>69</sup>

**Recommendation 15.** The Welsh Government should seek intergovernmental agreement to include the following text as part of the standard wording on the Protocol across each common framework: *“If Northern Ireland has to diverge in order to maintain parity with the EU, the same review process will be followed and the same assessments are made as whether it would be in the best interests of GB to follow suit or to allow divergence.”*

**Recommendation 16.** The Welsh Government should set out how it will assess the risks and benefits for Wales of ‘keeping pace’ with relevant legislative changes in Northern Ireland and the EU.

**Recommendation 17.** The Welsh Government should seek intergovernmental agreement to ensure that each common framework which intersects with the

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<sup>65</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 23

<sup>66</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 24

<sup>67</sup> Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 22

<sup>68</sup> Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 23

<sup>69</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 25



Protocol is updated to ensure frequent information-sharing between parties to the framework on forthcoming EU legislation.

## 10. The Internal Market Act

**59.** Senedd committees have raised issues in respect of the interaction of the *United Kingdom Internal Market Act 2020* (the Internal Market Act) with the common frameworks. The PAPA Committee, the HSC Committee, and the ETRA Committee have recommended that the frameworks should be updated to acknowledge any interaction with the Internal Market Act.<sup>70</sup>

**60.** The CCEI Committee has recommended that an assessment of the impact of the Internal Market Act on Welsh legislation in framework areas should be included within annual reports on frameworks.<sup>71</sup>

**61.** The HSC Committee and the ETRA Committee have both noted that the frameworks which they have considered do not reference the process for considering exclusions under the Internal Market Act in common framework areas<sup>72</sup> and recommends that the Welsh Government seeks intergovernmental agreement to acknowledge this process.<sup>73</sup>

**62.** In the same vein, the House of Lords Common Frameworks Scrutiny Committee has stated that the Internal Market Act:

*“... has damaged intergovernmental relations. This means it is all the more important that the exclusions process, which is*

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<sup>70</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 6; Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 21; Health and Social Care Committee, Letter from the Chair to the Deputy Minister for Mental Health and Wellbeing, June 2022, Recommendation 18; Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 20

<sup>71</sup> Climate Change, Environment, and Infrastructure Committee, Common Frameworks – Report 1, May 2022, Recommendation 6

<sup>72</sup> UK Government, [Process for considering UKIM Act exclusions in Common Framework areas](#), December 2021

<sup>73</sup> Health and Social Care Committee, Letter from the Chair to the Minister for Health and Social Services, 21 March 2022, Recommendation 21; Health and Social Care Committee, Letter from the Chair to the Deputy Minister for Mental Health and Wellbeing, June 2022, Recommendation 18; Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 20

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*essential for mitigating the effects of the Act, is made explicit in all relevant frameworks.”<sup>74</sup>*

**Recommendation 18.** The Welsh Government should seek intergovernmental agreement to amend each common frameworks to include a reference to the *United Kingdom Internal Market Act 2020* and the process for considering and agreeing exclusions from the Act in areas covered by a common framework.

## 11. The Subsidy Control Act

**63.** The ETRA Committee has agreed with the House of Lords Common Frameworks Scrutiny Committee that reviews of the Agricultural Support common framework should include analysis of its interaction with the *Subsidy Control Act 2022* (the Subsidy Control Act).<sup>75</sup>

**64.** The PAPA Committee has also emphasised a lack of clarity regarding how the Subsidy Control Act may impact public procurement in Wales, and has recommended that the Welsh Government should keep this matter under review.<sup>76</sup>

**65.** The House of Lords Common Frameworks Scrutiny Committee has made a broader criticism of the Subsidy Control Act, saying it restricts “the freedom of the devolved administrations to act within their own areas of competence”.<sup>77</sup> It recommended that the UK Government “considers how legislation it brings forward might conflict with relevant common frameworks, impede their successful operation, and affect the health of the Union.”<sup>78</sup>

**Recommendation 19.** The Welsh Government should keep the Senedd informed of the impact of the *Subsidy Control Act 2022* on relevant common frameworks.

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<sup>74</sup> House of Lords Common Frameworks Scrutiny Committee, *Common Frameworks: an unfulfilled opportunity?*, paragraph 69

<sup>75</sup> Economy, Trade and Rural Affairs Committee, *Common Frameworks*, December 2022, Recommendation 40

<sup>76</sup> Public Accounts and Public Administration Committee, *Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government*, 23 June 2022, page 5

<sup>77</sup> House of Lords Common Frameworks Scrutiny Committee, *Common Frameworks: an unfulfilled opportunity?*, paragraph 79

<sup>78</sup> House of Lords Common Frameworks Scrutiny Committee, *Common Frameworks: an unfulfilled opportunity?*, paragraph 80

## 12. International obligations and policy

**66.** As part of its scrutiny of common frameworks, the PAPA Committee has raised to the limited detail provided within relevant common frameworks in relation to their interaction with international obligations.<sup>79</sup>

**67.** The ETRA Committee has recommended that the Welsh Government should explain why frameworks take different approaches towards their role in the development of international policy,<sup>80</sup> and recommended that the Welsh Government should set out the arrangements for ensuring effective representation for Wales in this regard.<sup>81</sup>

**Recommendation 20.** The Welsh Government should seek intergovernmental agreement to amend each relevant common framework to include detail on how the governments of the UK will work together on international obligations and policy.

**Recommendation 21.** The Welsh Government should set out the arrangements which exist to ensure effective representation for Wales in the development of UK international policy in relevant common framework areas.

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<sup>79</sup> Public Accounts and Public Administration Committee, Letter from the Chair to the Minister for Economy and the Minister for Finance and Local Government, 23 June 2022, page 5;

<sup>80</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 26

<sup>81</sup> Economy, Trade and Rural Affairs Committee, Common Frameworks, December 2022, Recommendation 27

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## Annex: Reports and correspondence published by Senedd committees making recommendations on common frameworks

<b>Common framework</b>	<b>Responsible committee</b>	<b>Report or correspondence</b>
<b><u>Agricultural support</u></b>	Economy, Trade, and Rural Affairs Committee	<u>Common Frameworks</u> , December 2022
<b><u>Air Quality</u></b>	Climate Change, Environment, and Infrastructure Committee	<u>Common Frameworks – Report 1</u> , May 2022
<b><u>Animal health and welfare</u></b>	Economy, Trade, and Rural Affairs Committee	<u>Common Frameworks</u> , December 2022
<b><u>Blood safety and quality</u></b>	Health and Social Care Committee	<u>Letter to the Minister for Health and Social Services</u> , March 2022
<b><u>Chemicals and Pesticides</u></b>	Climate Change, Environment, and Infrastructure Committee	<u>Common Frameworks – Report 1</u> , May 2022
<b><u>Fertiliser Common Framework</u></b>	Economy, Trade, and Rural Affairs Committee	<u>Common Frameworks</u> , December 2022
<b><u>Fisheries Management and Support</u></b>	Economy, Trade, and Rural Affairs Committee	<u>Common Frameworks</u> , December 2022
<b><u>Food compositional standards and labelling common framework</u></b>	Health and Social Care Committee	<u>Letter to the Deputy Minister for Mental Health and Wellbeing</u> , June 2022
<b><u>Late payment (commercial transactions)</u></b>	Public Accounts and Public Administration Committee	<u>Letter to the Minister for Economy and Minister for Finance and Local Government</u> , June 2022



<b>Common framework</b>	<b>Responsible committee</b>	<b>Report or correspondence</b>
<b><u>Organics</u></b>	Economy, Trade, and Rural Affairs Committee	<u>Common Frameworks</u> , December 2022
<b><u>Organs, tissues and cells (apart from embryos and gametes)</u></b>	Health and Social Care Committee	<u>Letter to the Minister for Health and Social Services</u> , March 2022
<b><u>Plant health</u></b>	Economy, Trade, and Rural Affairs Committee	<u>Common Frameworks</u> , December 2022
<b><u>Plant Varieties and Seeds</u></b>	Economy, Trade, and Rural Affairs Committee	<u>Common Frameworks</u> , December 2022
<b><u>Public health protection and health security</u></b>	Health and Social Care Committee	<u>Letter to the Minister for Health and Social Services</u> , March 2022
<b><u>Public Procurement</u></b>	Public Accounts and Public Administration Committee	<u>Letter to the Minister for Economy and Minister for Finance and Local Government</u> , June 2022