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Colin McGrath MLA
Chairperson,
Committee for the Executive Office,
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Dear Colin

Committee Scrutiny of Common Frameworks

Thank you for your letter of 16 December highlighting the concerns of the Committee for the Executive Office in relation to the scrutiny of Common Frameworks by the Assembly.

Cross-Administration guidance on the process for submitting Common Frameworks for scrutiny by legislatures was developed in October in conjunction with the Common Frameworks Project Board. Further Assembly specific guidance was developed by TEO officials and issued through the NICS Common Frameworks Forum on 4 November for distribution to individual Departmental policy leads. A copy of this guidance is attached at Annex A.

It is apparent from the issues highlighted in your correspondence, that there remains some confusion over the process to be followed. Therefore, our officials will engage with the relevant Departments at the earliest opportunity in 2021 to reinforce the guidance and encourage policy teams to coordinate the scrutiny process with their counterparts in the other Administrations.

Monitoring of whether Common Frameworks recognises the economic and social linkages between Northern Ireland and Ireland; and adherence to the Belfast/Good Friday Agreement took place as part of the review and assessment process for all Frameworks during October and November 2020. A further review will take place in 2021 following scrutiny by the relevant legislatures and before implementation. It is anticipated that ongoing monitoring of any impacts will be carried out by Departments and Assembly Committees as part of the normal policy development process.

Yours sincerely,



**THE RT HON ARLENE FOSTER MLA
FIRST MINISTER**

**MICHELLE O'NEILL MLA
DEPUTY FIRST MINISTER**

Guidance on Assembly Engagement

Background

In October 2018, the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) agreed that the UK Government (UKG) and Devolved Administration (DA) officials should seek out opportunities to jointly engage with the stakeholder community where Ministers agree that this would be appropriate. Engagement comprises of three main elements:

- **High level programme engagement.** This outlines the overarching Common Frameworks programme to a broad audience of stakeholders, including academics and umbrella organisations. Programme engagement is usually completed by each respective administration separately;
- **Technical engagement.** This is completed by policy teams. Technical stakeholder engagement tests provisional policy conclusions with sector specific bodies and organisations in individual framework areas;
- **Parliamentary engagement.** Officials engage with the UK Parliament, NI Assembly, Scottish Parliament and Senedd Cymru both on the overarching Common Frameworks programme and specific framework areas.

Additional guidance relating to programme and technical stakeholder engagement has been developed by the Frameworks Project Team who are coordinating and providing support to policy teams across the four nations.

This guidance aims to provide further clarity to policy teams on parliamentary engagement. It should be noted that whilst the Frameworks Project Team continue to work together to ensure project delivery progresses simultaneously, parliamentary scrutiny processes may differ slightly across the legislatures. The Common Frameworks Project Team will encourage policy teams to engage with their respective parliaments/ legislatures at similar stages during framework delivery, and ensure that parliamentary recommendations are agreed jointly once scrutiny is complete.

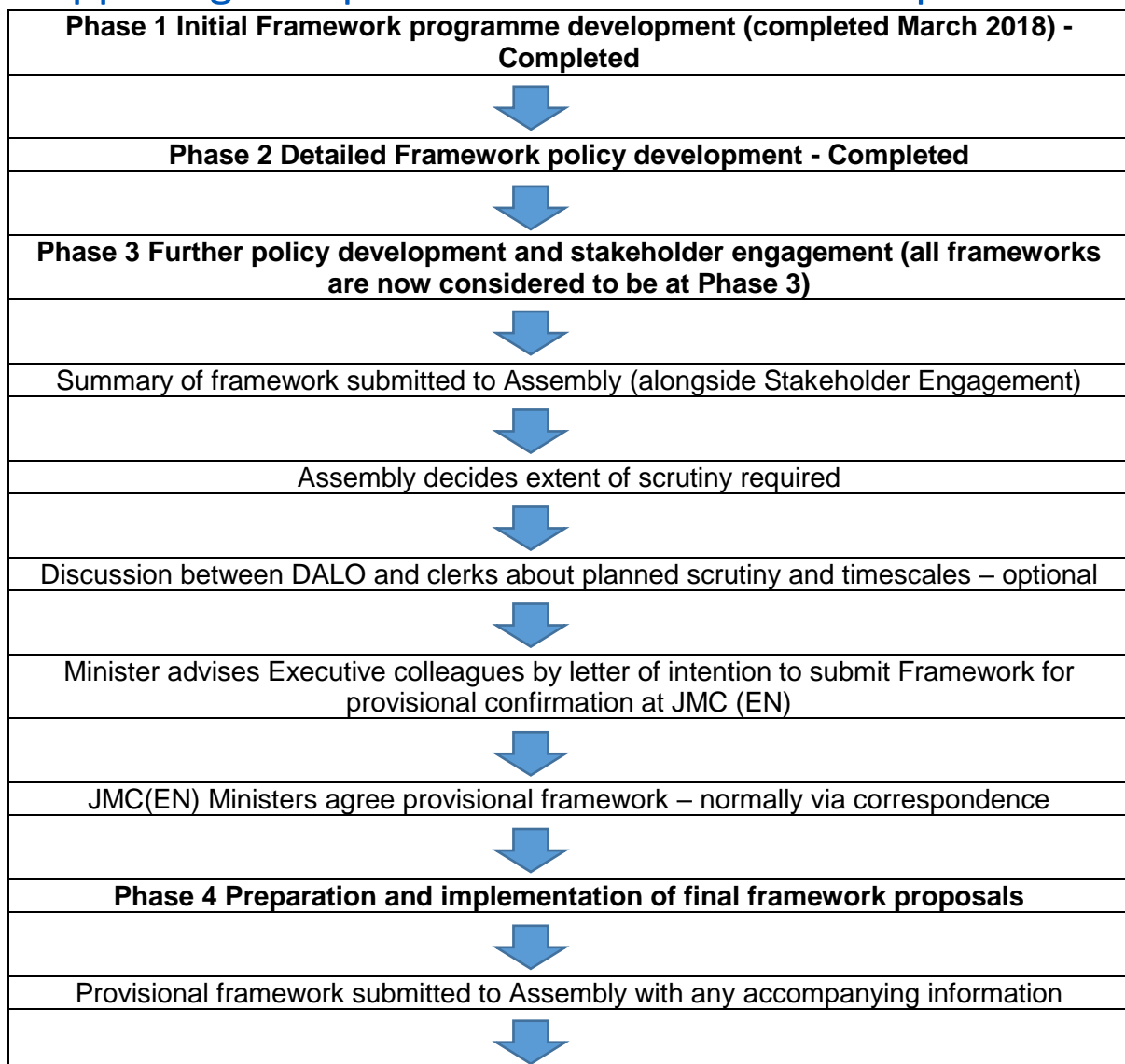
Parliamentary Engagement

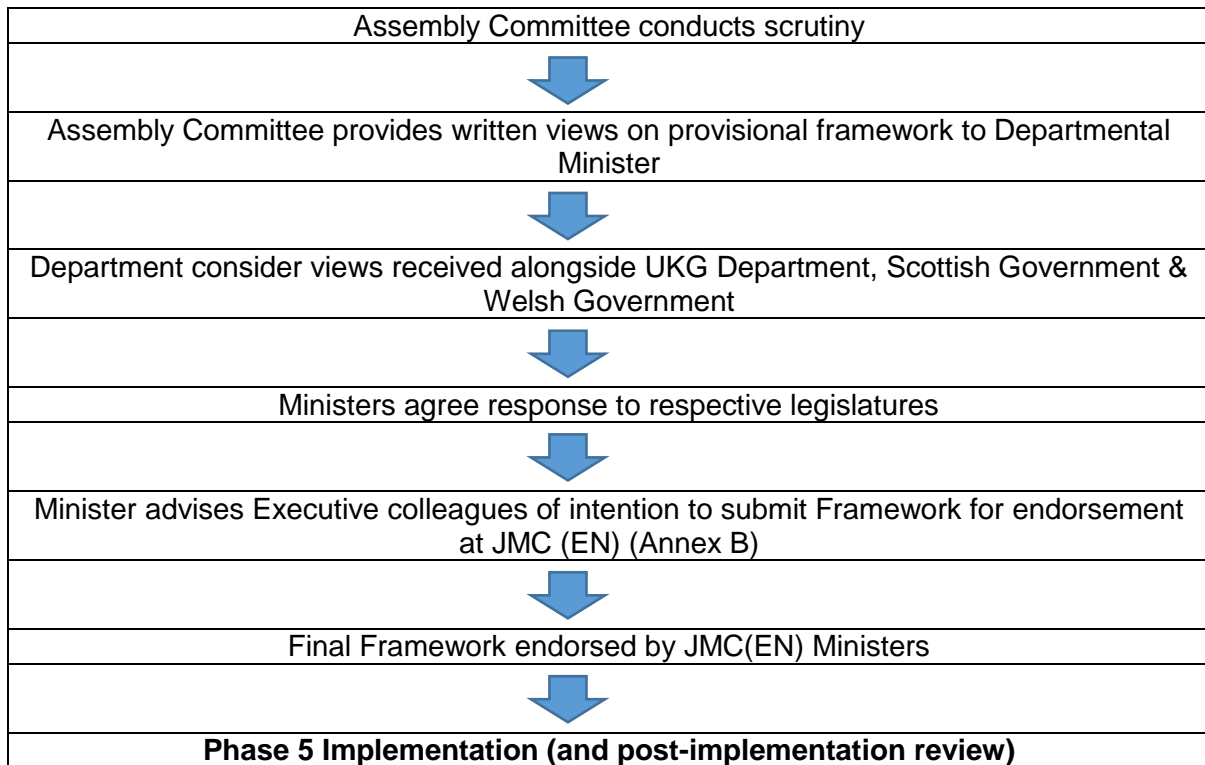
Where a framework is being established across the UK Government and devolved administrations, the provisional framework must be shared with the respective legislatures, namely the UK Parliament - both the House of Commons and the House of Lords, the Scottish Parliament, the Senedd Cymru and the Northern Ireland Assembly. All frameworks must be shared with legislatures to allow committees to decide if they should wish to conduct scrutiny. It is likely committees will elect to scrutinise some frameworks but not all.

Purpose

The purpose of this proposal is to align the process of scrutiny of frameworks across the legislatures, and to allow legislatures to input into the development of frameworks while minimising the impact this may have on delivery timelines.

Common Framework scrutiny process flowchart - mapped against phases of framework development





Detailed step by step process

1. Prepare summary

A summary of the provisional framework will have been produced to allow for technical stakeholder engagement. A letter to the committee Chairs and a cover note (at annex A) should also be prepared. Policy teams are advised to prepare all documents for Ministerial clearance at the same time.

2. Share summary

Once the summary is cleared by the policy Minister the summary should be sent, by Ministerial letter (template supplied at annex A), along with a cover note to the relevant committee. Whilst the letters should be addressed to the committee chairs, it should issue via your Departmental Assembly Liaison Officer. The provisional framework summaries are being shared at this time for information only, to allow committees time to fully prepare for potential upcoming scrutiny. Summaries are not being shared to allow for early scrutiny, this would be premature as the content is subject to change prior to scrutiny. As per the cover note, committees should be advised that this document is not for public consumption and should not be published, but is a tool to support individual committees' preparation in advance of full scrutiny.

3. Preparatory conversations

The cover letter you shared with committees (in point 2) provides some useful questions to encourage preparatory conversations. It would be helpful at this point to understand which committees (if any) are planning to scrutinise the framework, though this issue is only likely to be relevant for cross-cutting issues. Policy teams are asked to agree timings for scrutiny. As you should have an idea of when JMC(EN) provisional approval is expected, you should be able to confirm/suggest the expected date that you expect to lay the framework for scrutiny. Policy teams are advised to agree on the date recommendations should be received. We advise 21 sitting days as standard for scrutiny of UK Common Frameworks, however committees may request a longer time frame, which policy teams can negotiate keeping in mind your delivery timeline.

4. Sharing frameworks

After the Joint Ministerial Committee (European Negotiations) (JMC(EN)) agrees the provisional framework, each of the administrations will share the provisional framework, together with any related implementation products such as any concordat associated with the framework, with its respective parliament. Policy teams are advised to contact their Departmental Assembly Liaison Officer will assist with arrangements to share the framework the relevant Assembly Committee.

5. Scrutiny takes place

Committee members in each legislature will decide the approach they wish to take to the scrutiny of the framework, including whether they wish to take evidence from Ministers, officials or stakeholders. Committee members may choose to write to Ministers on the content of these summaries, which Ministers should be prepared for.

6. Receive and review recommendations

Once a committee has scrutinised a provisional framework the committee should set out its views on the provisional framework in writing, highlighting any issues, concerns or suggestions it might have. The committee must send its views to the respective Minister within the previously agreed deadline for recommendations to allow for consideration by individual administrations. Policy teams should consider recommendations received.

7. Review recommendations jointly (UKG/DA)

If any administration decides any of their committees' recommendations have merit they will need to represent the views to the other administrations, and jointly agree to any revisions of the provisional framework, in line with earlier framework policy development. The policy team will jointly revise the provisional framework to take account of any jointly agreed adjustments.

8. Respond to committees

Later, once UK Government and devolved administration portfolio Ministers have reviewed and approved the revised framework agreement, the provisional framework will then be referred back to JMC(EN) for endorsement and approval for implementation as a final framework. Policy ministers should then write to their legislatures with a response to the committee recommendations and share a final version of the framework. It is advised that policy officials continue to engage with

parliamentary officials to offer clarity on when the final framework and response to committees should be expected.

Annexes

Template Ministerial letter to share summary with UKP committees

Cover page for sharing summary with committee

Dear *Committee Chair*,

I am pleased to share a summary of *X framework* with you.

My officials, together with their counterparts in [*Scottish Government, Welsh Government and the UK Government Department*] have been working jointly to develop *X framework*. I am sharing a summary of this framework for your committee to review, to assist with committee preparations for scrutiny of the provisional framework. Should you wish to scrutinise, my officials will provide further evidence to the Committee. The provisional framework is due to be shared with your committee *in the coming weeks* following Provisional Confirmation by JMC (EN).

Please find attached a cover letter, outlining some of the practical details to enable scrutiny of the provisional framework, alongside the summary prepared by my officials. I understand my counterparts across the devolved administrations will be taking similar steps to engage with their respective parliaments.

Yours
Minister



Northern Ireland
Assembly

Committee for the Executive Office

Arlene Foster MLA and Michelle O'Neill MLA
First Minister and deputy First Minister
The Executive Office
Stormont Castle
Ballymiscaw
Belfast
BT4 3TT

16 December 2020

Dear Arlene and Michelle

COMMITTEE SCRUTINY OF COMMON FRAMEWORKS

In recent months Assembly Committees have been engaging in the scrutiny process for common frameworks. As you are aware, this scrutiny is crucial for the development of the frameworks system, and the sharing of framework summaries and provisional frameworks with committees is key to the transparency of the system.

You will also be aware that Chloe Smith MP, Minister of State in the Cabinet Office, has responsibility for the common framework programme. In correspondence to the House of Lords Liaison Committee on 1 June 2020, the Minister shared the process developed by officials across the UK Government and devolved administrations to enable parliamentary scrutiny of common frameworks to happen in parallel across legislatures. A copy of the Minister's correspondence is attached for information.

Key points from the scrutiny process outlined by the Minister include:

- Throughout the scrutiny process the administrations will be sharing the same information at the same time with their own legislatures;
- At the same time as it is sent to stakeholders, the summary of the framework will be sent by the department responsible for the framework in each administration to their respective legislature for their information. This will be accompanied by an offer of a technical briefing by the policy team to answer any questions committee members might have at this stage. This will help inform preparation for future parliamentary scrutiny when the policy content of the agreement is more comprehensively developed. At this point the policy team responsible for the framework will consult with their respective committee clerks and discuss timings for the scrutiny process;

- After Joint Ministerial Committee (European Negotiations) (JMC(EN)) Ministers agree the provisional framework via correspondence, the policy teams responsible for the framework in each of the administrations will lay the provisional framework, together with any related implementation products such as any concordat associated with the framework, in its respective legislature.

While the expectations of this process are clear, Assembly committees have encountered difficulties as the process has not been followed by Executive departments. These difficulties have presented challenges to the scrutiny process and the ability of committees to scrutinise the frameworks in accordance with the agreed phases.

Examples of the issues experienced include:

- The Committee for Health received the Food and Feed Safety and Hygiene provisional framework documents almost two weeks after they were published on the UK Government website. This was also the case for the Nutrition Labelling, Composition and Standards provisional framework. We understand the Joint Ministerial Committee gave provisional confirmation to the latter framework more than a month prior to its publication.
- Regarding two further common frameworks for the Committee for Health (Blood Safety and Quality; and Organs, Tissues and Cells), we understand these were received by the Lords Common Frameworks Scrutiny Committee on 30 November but have yet to be received by the Committee for Health.
- The Committee for Finance received the Public Procurement provisional framework on 2 December. However, at this stage the Committee still had not received the summary framework document, despite this summary being issued to stakeholders in October.
- The Chemicals and Pesticides framework falls under the scope of two Committees; the Committee for Agriculture, Environment and Rural Affairs (CAERA) is the lead Committee, while the Committee for Economy is also engaged in the scrutiny process. The Committee for Economy received the provisional framework documents ahead of CAERA, which has still not received the documents, although it has already scrutinised the summary.
- Multiple frameworks will be considered by the Committee for Agriculture, Environment and Rural Affairs. The Committee is also scrutinising a high volume of secondary legislation relating to EU Exit. Much of the legislation the Committee has already considered relates to specific common frameworks, and often the Committee has undertaken this scrutiny without knowing that a piece of legislation is part of a common framework, which framework it corresponds to, and without having seen the framework.
- CAERA has also noted that stakeholders have published summaries e.g. for the Ozone depleting substances and F-gases framework, while the Committee has been instructed that it should not share or publish the framework documents it receives.
- The Committee for Infrastructure will scrutinise the Hazardous Substances Planning framework. This was published by the UK Government and sent to the Lords Common Framework Scrutiny Committee on 23 November. We

understand the corresponding Senedd Committee received the provisional frameworks document on 15 October, yet this was only received by the Committee for Infrastructure on 9 December.

- The Committee for Infrastructure received provisional framework documents for five transport-related common frameworks on 9 December. The summaries relating to these frameworks had been received by the Commons Transport Committee on 15 October, and the Lords Common Frameworks Scrutiny Committee on 27 October. However, to date, the Committee for Infrastructure has not received any of these summary documents.

It is important that the process for scrutiny of common frameworks is facilitated by departmental officials following the outlined process, including in relation to timely sharing of information across all institutions; in provision of summary documents and timely provision of provisional frameworks. It is also important that Assembly committees should be notified where any legislation brought forward to the committee relates to a common framework.

The Committee for the Executive Office would be grateful if you could clarify how the common frameworks scrutiny system should be working; why these issues have arisen; and the steps the Executive Office will take to ensure that all departments are following the Cabinet Office guidance issued in June 2020.

In relation to the third principle for the development of common frameworks, the Committee would also be grateful for details of how the Executive Office will monitor whether common frameworks recognise the economic and social linkages between Northern Ireland and Ireland; and adherence to the Belfast/Good Friday Agreement.

A copy of this correspondence will be sent to the House of Commons Public Administration and Constitutional Affairs Committee; the House of Lords Common Frameworks Scrutiny Committee; the Scottish Parliament Finance and Constitution Committee; and the Senedd European Affairs and Additional Legislation Committee.

Yours sincerely



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