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# **Chemicals and Pesticides Common Framework**

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This briefing discusses the Chemicals and Pesticides Common Framework. It sets out how the UK Government and devolved governments propose to work together on chemicals and pesticides policy and regulation. It also provides background information on the common frameworks programme.



**Common  
Framework**

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# Summary

This briefing provides detailed information on the Chemicals and Pesticides Common Framework. The Net Zero, Energy and Transport (NZET) Committee will lead on scrutiny of the framework. The framework is also being shared with the Rural Affairs, Islands and Natural Environment (RAINE) Committee for subject interest.

The Chemicals and Pesticides framework covers policy governed by retained EU law and international arrangements. The framework is a non-legislative agreement formalising ways of working between the four governments on chemicals and pesticides policy. The framework sets out the scope of the policy area, the roles and responsibilities of parties to the framework, as well as the mechanisms for monitoring, review, amendment, and dispute resolution.

Background information on, for example, what common frameworks are and how they have been developed is also provided in this paper.

The [SPICe common frameworks hub](#) collates all publicly available information on frameworks considered by committees of the Scottish Parliament.

In session five, the Finance and Constitution Committee [reported](#) on common frameworks and recommended that frameworks should include the following:

- their scope and the reasons for the framework approach (legislative or non-legislative<sup>i</sup>) and the extent of policy divergence provided for;
- decision making processes and the potential use of third parties;
- mechanisms for monitoring, reviewing and amending frameworks including an opportunity for Parliamentary scrutiny and agreement;
- the roles and responsibilities of each administration; and
- the detail of future governance structures, including arrangements for resolving disputes and information sharing

The [Scottish Government's response](#) highlighted that there may be a "range of forms" which frameworks could take.

More detail on the background to frameworks is available in a [SPICe briefing](#) and also [in a series of blogs](#) available on SPICe spotlight.

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<sup>i</sup> This categorisation was dropped in the [2021 Frameworks analysis](#), which reported that all frameworks will now be non-statutory intergovernmental agreements, and that the previously-used categories of "legislative" and "non-legislative" frameworks have been renamed as "frameworks with associated primary legislation" and "frameworks with no associated primary legislation" respectively.

# What are common frameworks?

A common framework is an agreed approach to a particular policy, including the implementation and governance of it. The aim of common frameworks is to manage divergence in order to achieve some degree of consistency in policy and practice across UK nations in areas formerly governed by EU law.

In its [October 2017 communique on common frameworks](#), the Joint Ministerial Committee (EU Negotiations) (JMC (EN)) stated that:

“ 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.”

[Joint Ministerial Council \(EU Negotiations\), 16 October 2017](#), Common Frameworks: Definition and Principles

The [Scottish Government indicated in 2019](#) that common frameworks would set out:

- the area of EU law under consideration, the current arrangements and any elements from the policy that will not be considered. It will also record any relevant legal or technical definitions.
- a breakdown of the policy area into its component parts, explain where the common rules will and will not be required, and the rationale for that approach. It will also set out any areas of disagreement.
- how the framework will operate in practice: how decisions will be made; the planned roles and responsibilities for each administration, or third party; how implementation will be monitored, and if appropriate enforced; arrangements for reviewing and amending the framework; and dispute resolution arrangements.

However, the Food and Feed Safety and Hygiene Law framework outline considered by the session five Health and Sport Committee noted that:

“ the framework itself is high level and commits all signatories to early, robust engagement on policy changes within scope.”

[Framework Outline Agreement and Concordat](#), 30 November 2020

The framework outline went on to note that the framework:

“ is intended to facilitate multilateral policy development and set out proposed high level commitments for the four UK Administrations. It should be viewed as a tool that helps policy development, rather than a rigid template to be followed.”

As such, it is likely that there will be significant variation between frameworks in terms of whether they set policy or set out how decisions on policy within the scope of the framework will be taken.

There are, however, similarities between frameworks in terms of their overall structure, with the agreements setting out the roles and responsibilities for parties to the framework,

how the framework can be reviewed and amended, and how disputes are to be resolved.

# Why are common frameworks needed?

During its membership of the European Union, the UK was required to comply with EU law. This means that, in many policy areas, a consistent approach was often adopted across all four nations of the UK, even where those policy areas were devolved.

On 31 December 2020, the transition period ended, and the United Kingdom left the EU single market and customs union. At this point, the requirement to comply with EU law also came to an end. As a result, the UK and devolved governments agreed that common frameworks would be needed to avoid significant policy divergence between the nations of the UK, where that would be undesirable.

The Protocol on Ireland/Northern Ireland was signed as part of the UK-EU Withdrawal Agreement and ratified in UK law by the EU Withdrawal (Agreement) Act (2020). The Protocol requires that Northern Ireland aligns with a limited set of EU laws relating to the Single Market for goods and the Customs Union. The [Northern Ireland Protocol Bill](#) was introduced to the UK Parliament on 13 June 2022. If passed, the Bill may affect the requirement for Northern Ireland to align with EU regulations of goods. In addition, policy positions (or framework governance arrangements) set out in this Common Framework briefing may also be affected.

The Joint Ministerial Committee (JMC) was a set of committees that comprised ministers from the UK and devolved governments. The JMC (EU Negotiations) sub-committee was created specifically as a forum to involve the devolved administrations in discussion about the UK's approach to EU Exit. Ministers responsible for Brexit preparations in the UK and devolved governments attended these meetings.

In October 2017, the JMC (EN) [agreed an underlying set of principles to guide work in creating common frameworks](#). These principles are set out below.

1. Common frameworks will be established where they are necessary in order 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
  - safeguard the security of the UK.
2. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:
  - be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
  - maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules; and
  - lead to a significant increase in decision-making powers for the devolved administrations.



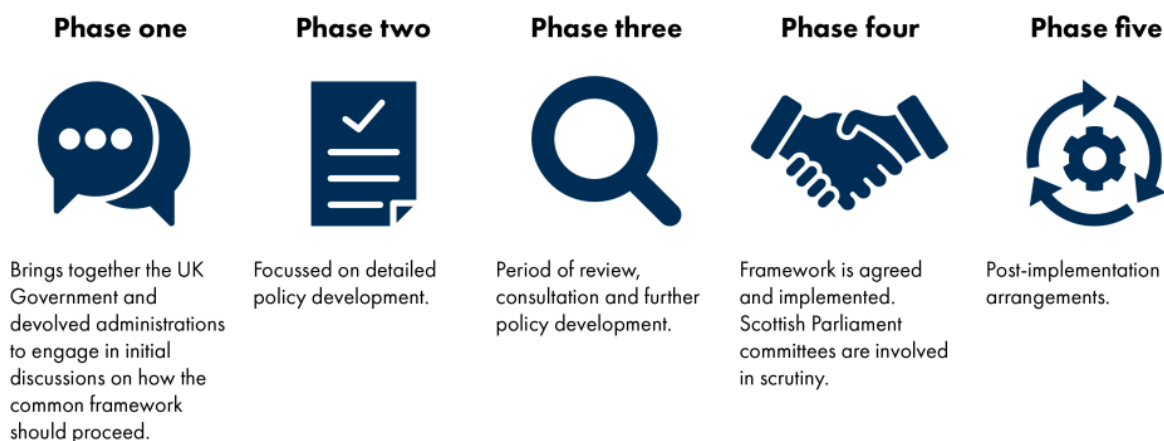
# What is the process for developing frameworks ?

Frameworks are inter-governmental agreements between the UK Government and the devolved administrations.

They are approved by Ministers on behalf of each government prior to being sent to all UK legislatures for scrutiny. [The UK Government Cabinet Office](#) is coordinating the work on developing common frameworks.

Common frameworks go through four phases of development before implementation at phase five. The stages are set out below. The parliament receives frameworks for scrutiny at phase four.

## Common framework development



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# How will the Scottish Parliament consider frameworks?

Frameworks which have reached phase four are available to be considered by the Scottish Parliament. Subject committees can consider frameworks which sit within their policy areas.

Each legislature in the UK can consider common frameworks. Issues raised by legislatures during this scrutiny are fed back to their respective government. Governments then consider any changes which should be made to frameworks in light of scrutiny by legislatures before implementing the framework. Changes in light of scrutiny are not, however, a requirement.

The Constitution, Europe, External Affairs and Culture Committee has an oversight role in relation to frameworks and will lead on cross-cutting issues around transparency, governance and ongoing scrutiny.

The Scottish Government has previously acknowledged the ongoing role of the Scottish Parliament in relation to frameworks:

“ Consideration will also need to be given to what role the Parliament might have in the ongoing monitoring and scrutiny of frameworks post-implementation.”

[Scottish Government response](#) to the session five Finance and Constitution Committee report on common frameworks, June 2019

## The Scrutiny Challenge

The way in which common frameworks have been developed and will operate raises some significant scrutiny challenges for the Scottish Parliament.

- Common frameworks are intergovernmental agreements and the scope for parliamentary influence in their development is significantly limited with scrutiny taking place at phase four.
- The ongoing operation of frameworks will take place at an official level between government departments. It is therefore unclear how much information the Parliament may be able to access to scrutinise the effect of frameworks on policy-making.
- The Scottish Government and the UK Government have differing objectives in relation to frameworks. The UK Government is seeking “high levels of regulatory coherence”.<sup>1</sup> The Scottish Government believes that they are about “allowing legitimate policy choices”.<sup>1</sup>
- The interconnected nature of common frameworks and the UK Internal Market Act 2020 (see section on the [UK Internal Market Act](#)).
- The impact of common frameworks on the Scottish Government’s stated policy position of keeping pace with EU law.
- The fact that most frameworks have been operating on an interim basis since 1

January 2021 in spite of being unavailable for scrutiny by legislatures<sup>2</sup>.

The [legacy expert panel report](#) to the session five Finance and Constitution Committee noted these scrutiny challenges. The Committee had previously recommended that the Scottish Government should have to report on the operation of each common framework, noting interactions with cross-cutting issues such as keeping pace with EU law, on an annual basis.

# Scrutiny at other legislatures

This section provides information on scrutiny of the framework at other legislatures.

## House of Lords Common Frameworks Scrutiny Committee

The [House of Lords Common Frameworks Scrutiny Committee](#) considered a summary of the framework during May 2021. This scrutiny raised some issues regarding the framework governance structures and the role of the UK Chemicals Governance Group (see [Roles and Responsibilities](#) for more information).

## Senedd Climate Change, Environment, and Infrastructure Committee

The Senedd's Climate Change, Environment and Infrastructure Committee considered the framework in early 2022. [In an evidence session on 17 February 2022](#), Julie James, Minister for Climate Change, described the effects of the frameworks as follows:

“ The frameworks, we think, have been very useful in bringing together policy officials from across the four Governments in areas where there's previously been very little dialogue, and, in some cases, it's really improved inter-governmental relations.”

[In its report](#), the Committee made 16 recommendations to the Welsh Government. These include requests for:

- Clarification regarding whether new UK standards on chemicals will maintain protections comparable to those of the EU REACH regime;
- Clarification regarding the scope of the framework;
- Annual reports on the operation of the framework;
- Improved provisions for parliamentary engagement; and
- Information and further commitments on stakeholder engagement.

## Northern Ireland Assembly Committee for Agriculture, Environment, and Rural Affairs

The Northern Ireland Assembly's Committee for Agriculture, Environment and Rural Affairs [published its position paper at the end of the 2017-22 mandate](#).

The Committee agreed with many of the concerns voiced by committees at other legislatures, but also noted several issues specific to Northern Ireland. These include the effects of current and anticipated future levels of divergence as well as a lack of regulatory

oversight. For instance, the Committee stated:

“ NI is currently experiencing divergence in this area and is essentially in a regulatory "no man's land" in terms of regulatory oversight as the Chemicals Regulation Division of the Health and Safety Executive (UK) has not taken on responsibility of regulating products being used in NI”

The Committee also drew attention to the role a paragraph in the framework documents about mechanisms that will be used to discuss and manage proposed policy changes.

“ Where one or more of UK Government, the Scottish Government or the Welsh Government proposes to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU”

The Committee expressed concerns that this paragraph "suggests that NI may be prohibited from proposing policy changes under the auspices of the Framework which are unconnected to its obligations under retained EU law".

The Committee made a number of recommendations to address their concerns. These include the request that "DAERA [Northern Ireland Executive's Department of Agriculture, Environment and Rural Affairs] should clarify if the Secretary of State will assume responsibility for representing NI's interests in the functioning of the Common Framework, should the local Executive collapse."

The position paper also noted that the Northern Ireland Assembly Committee wrote to the House of Lords Common Frameworks Scrutiny Committee in December 2021 (this correspondence is not published). The position paper indicates the Northern Ireland Assembly Committee and House of Lords Common Frameworks Scrutiny Committee share concerns across frameworks in the following areas:

- A lack of apparent engagement with the Irish government in respect of common frameworks and implications for North-South policy interaction;
- a lack of engagement with community and voluntary stakeholders in Northern Ireland to seek their views on common frameworks;
- how the [Subsidy Control Act 2022](#) will overlap with and impact on common frameworks which deal with subsidies.

## House of Commons Environment, Food and Rural Affairs Committee

At the time of writing, [the framework is being considered by the House of Commons' Environment, Food, and Rural Affairs Committee](#) alongside others in the remit of the UK Government Department of Environment, Food and Rural Affairs. [In a letter to George Eustice MP](#), Secretary of State for Environment, Food and Rural Affairs, dated 8 June 2022, the Committee asked for clarification on the UK Government's views on policy divergence and expressed concern about provisions for stakeholder engagement.

# The UK Internal Market Act 2020

The [UK Internal Market Act 2020](#) was introduced in the UK Parliament by the UK Government in preparation for the UK's exit from the EU. The Act establishes [two market access principles](#) to protect the flow of goods and services in the UK's internal market.

1. The principle of mutual recognition, which means that goods and services which can be sold lawfully in one nation of the UK can be sold in any other nation of the UK.
2. The principle of non-discrimination, which means authorities across the UK cannot discriminate against goods and service providers from another part of the UK.

The Act means that the market access principles apply even where divergence may have been agreed in a framework.

The introduction of the UK Internal Market Act had a significant impact on the common frameworks programme because of the tension between the market access principles contained in the Act and the political agreement reached that "common frameworks would be developed in respect of a range of factors, including "ensuring the functioning of the UK internal market, *while acknowledging policy divergence*".<sup>iii</sup>

UK Government Ministers have the power to disapply the market access principles set out in the Act where the UK Government has agreed with one or more of the devolved governments that divergence is acceptable through the common frameworks process.

Although UK Ministers can disapply the market access principles in such circumstances, they are not legally obliged to do so.

On 2 December 2021, [Angus Robertson MSP, Cabinet Secretary for Constitution, External Affairs and Culture](#) wrote to the [Convener of the Constitution, Europe, External Affairs and Culture Committee](#) to give an update on the common frameworks programme.

The letter indicated that at a recent Ministerial quadrilateral, agreement had been reached between the UK Government and the Scottish Government and other devolved administrations<sup>iii</sup> on an approach to "securing exemptions to the Act for policy divergence agreed through common frameworks".

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ii [After Brexit: The UK Internal Market Act and Devolution](#), Scottish Government, 8 March 2021. Note that footnote 27 in this document provides an incorrect reference. The correct reference is [JMC \(EN\) Communiqué, 16 October 2019](#).

iii See [letter from the Counsel General and Minister for the Constitution to the Senedd's Legislation, Justice and Constitution Committee dated 25 November 2021](#).

“ The meeting agreed an approach to securing exemptions to the Act for policy divergence agreed through common frameworks, and endorsed the text of a statement that UK Ministers will shortly make to the House of Commons. This will give effect to firm commitments made to the UK Parliament during the passage of the Bill that “...divergence may occur where there is agreement under a common framework, and that such divergence could be excluded from the market access principles. Regulations to give effect to such an agreement can be made under Clauses 10 and 17. In those cases, the Secretary of State would be able to bring to the House a statutory instrument to exclude from the market access principles a specific agreed area of divergence. This would follow consensus being reached between the UK Government and all the relevant parties that this is appropriate in respect of any specific defined topic within a common framework.”

[Letter from the Cabinet Secretary for Constitution, External Affairs and Culture](#), 2 December 2021

## Process for considering UK Internal Market Act exclusions in common framework areas

The UK Government and devolved administrations have agreed a process for considering exclusions to the market access principles of the UK Internal Market Act 2020. The [process](#) was published on 10 December 2021.

The process requires that if a [party to the framework](#) wishes to seek an exclusion to the market access principles, it must set out the scope and rationale for this. The proposed exclusion is then considered by the appropriate framework forum, taking into account evidence including about the likely direct and indirect economic impact of the proposed exemption. If the exemption is agreed, it is for UK Ministers to introduce a draft instrument to the UK Parliament to give effect to the exclusion. The UK Parliament will then consider the draft instrument.

The process is set out in full below. <sup>3</sup>

## **Proposal and consideration of exclusions**

1. Sections 10 and 18 and Schedules 1 and 2 of the UK Internal Market Act contain provisions excluding the application of the United Kingdom market access principles in certain cases.
2. Whenever any party is proposing an amendment to those Schedules in areas covered by a Common Framework:
  - a. the exclusion seeking party should set out the scope and rationale for the proposed exclusion; and
  - b. consideration of the proposal, associated evidence and potential impact should be taken forward consistent with the established processes as set out in the relevant Common Framework, including an assessment of direct and indirect economic impacts.
3. It is recognised that all parties will have their own processes for considering policy proposals. Administrations should consult and seek agreement internally on their position before seeking to formally agree the position within the relevant Common Frameworks forum.

## **Agreement of an exclusion request**

4. Where policy divergence has been agreed through a Common Framework this should be confirmed in the relevant Common Framework forum. This includes any agreement to create or amend an exclusion to the UKIM Act 2020's market access principles.
5. Evidence of the final position of each party regarding any exclusion and whether an agreement has been reached should be recorded in all cases. This could take the form of an exchange of letters between appropriate UK Government and Devolved Administration ministers and include confirmation of the mandated consent period for Devolved Administration ministers regarding changes to exclusions within the Act.
6. Parties remain able to engage the dispute resolution mechanism within the appropriate Common Framework if desired.

## **Finalising an exclusion**

7. Under section 10 or section 18 of the UK Internal Market Act 2020 amendments to the schedules containing exclusions from the application of the market access principles require the approval of both Houses of the UK Parliament through the affirmative resolution procedure. Where agreement to such an exclusion is reached within a Common Framework, the Secretary of State for the UK Government department named in the Framework is responsible for ensuring that a draft statutory instrument is put before the UK Parliament.



# Chemicals and pesticides

The Chemicals and Pesticides Common Framework ("the framework") has reached phase four and has, as such, been received by the Scottish Parliament for scrutiny. Scrutiny will be undertaken by the Rural Affairs, Islands and Natural Environment (RAINE) Committee. The Net Zero, Energy and Transport (NZET) Committee has also been sent the framework for consideration.

The framework has been received by other UK legislatures. This briefing is intended to facilitate scrutiny of the framework by the Scottish Parliament.

## Policy Area

The policy area under consideration is chemicals and pesticides regulation. The chemicals and pesticides policy area encompasses policies and regulations relating to:

- the manufacture, placing on the market, and use of chemicals under Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH);
- the classification, labelling and packaging of substances and mixtures, commonly referred to as Classification Labelling and Packaging (CLP);
- the making available on the market and use of biocidal products, commonly referred to as the Biocidal Products Regulation (BPR);
- the export and import of hazardous chemicals, commonly referred to as Prior Informed Consent (PIC);
- the regulation of detergents;
- the regulation of pesticides, commonly referred to plant protection products (PPPs);
- the regulation of mercury; and
- the regulation of persistent organic pollutants (POPs) and polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT).

## Scope

The framework extends to areas of chemicals and pesticides that were brought into retained EU law and intersect with devolved competence. Relevant EU law continues to apply in Northern Ireland in respect of the Northern Ireland Protocol.<sup>iv</sup> The framework notes that "chemicals" is to be read as including pesticides.

In relation to international conventions where responsibilities for delivering UK commitments are devolved across the UK, the environmental regulators will collaborate to ensure a consistent approach where possible. With regards to international obligations

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<sup>iv</sup> The Northern Ireland Protocol Bill was introduced to the UK Parliament on 13 June 2022. If passed, the Bill may affect the current requirement for regulatory alignment between Northern Ireland and the EU.

under the Rotterdam Convention, the UK Government is responsible for delivering commitments across the whole of the UK. However, the Scottish and Welsh Governments must give consent to UK import responses for chemicals listed under the Rotterdam Convention. The policy area covered by this framework also intersects with the [EU-UK Trade and Cooperation Agreement](#) (TCA) and therefore topics relevant to the framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council.<sup>v</sup>

The framework notes the following interactions with other common frameworks:

- Resources and Waste Common Framework for UK REACH, mercury, and Persistent Organic Pollutants; and
- Food and Feed Safety and Hygiene Common Framework, given the potential risk to human health posed by pesticide residues in food.

## Definitions

- **Biocides** are chemical substances or microorganisms intended to destroy, deter, render harmless, or exert a controlling effect on any harmful organism.
- **Chemical regimes** are defined as those arrangements covered by the specific [legislation associated with the framework](#) and the sundry legislation around these, including domestic regulations and international conventions.
  - The legislation listed includes, but is not limited to, regimes covered by the European Chemicals Agency in the EU for EU Member States and in Northern Ireland in respect of the Northern Ireland Protocol.
- **Classification, Labelling and Packaging (CLP)** involves identifying hazardous chemicals and how they can harm life and the environment, and helps to ensure chemicals are stored and disposed of safely.
- **Detergents** are surfactants or a mixture of surfactants with cleansing properties in dilute solutions.
- **European Chemicals Agency (ECHA)** is an agency of the EU which manages the technical and administrative aspects of the implementation of chemical regimes (e.g. REACH, Classification, Labelling and Packaging, Biocidal Products) in the EU for EU Member States and in Northern Ireland by virtue of the Northern Ireland Protocol.
- **European Food Safety Authority (EFSA)** is the agency of the EU that provides independent scientific advice and communicates on existing and emerging risks associated with the food chain in the EU for EU Member States and in Northern Ireland by virtue of Northern Ireland Protocol.
- **Mercury** is toxic and can be harmful to people and the environment.

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<sup>v</sup> The Partnership Council is the EU-UK body which oversees the TCA Agreement. Beneath the Partnership Council, a number of Specialised Committees and working groups have been established to oversee particular elements of the Agreement.

- **Persistent Organic Pollutants (POPs)** are chemicals which persist in the environment, can bioaccumulate and biomagnify in food chain organisms, including humans, and are toxic.
- **Plant Protection Products (PPP, or pesticides)** (as defined in Article 2 of [Regulation 1107/2009](#)) are products used to control pests, weeds, and diseases, to protect crops and other useful plants.
- **Prior Informed Consent (PIC)** aims to protect human health and the environment by providing importing countries with information on how to store, transport, use and dispose of hazardous chemicals safely.
- **United Kingdom Registration, Evaluation, Authorisation and Restriction of Chemicals (UK REACH)** regulates the manufacture, placing on the market, and use of chemicals.
  - While EU REACH continues to apply to Northern Ireland under the Northern Ireland Protocol, the domestic REACH regime is referred to as “UK REACH” as certain aspects of UK REACH apply to Northern Ireland, in relation to facilitating the movement of substances from Northern Ireland to Great Britain.

## Summary of proposed approach

The framework comprises of non-legislative arrangements. The chemicals and pesticides policy area covers a complex [mixture of reserved and devolved competences](#). The Parties to the framework have agreed a UK-wide framework is necessary to enable the functioning of the UK internal market, ensure compliance with international obligations, and support the management of regulatory coherence or divergence.

The non-legislative governance of the framework is supported by a Concordat which outlines processes for [decision making](#), [dispute resolution](#), [monitoring the framework](#), and a [review and amendment mechanism](#). The Concordat also sets out [principles of working together](#) to support the functioning of the framework.

The [governance structures](#) associated with the framework include groups of policy officials to provide strategic oversight of chemicals regimes in the UK. These groups are supported by independent advisory bodies and regulatory bodies. The framework notes additional or separate governance arrangements may be required between combinations of the Parties to the framework.

## Stakeholder engagement

The framework documents describe stakeholder engagement that has taken place as part of development of the framework and stakeholder engagement that is expected to take place after implementation of the framework (including as part of ongoing operations within the framework).

## Development of the Framework

The [covering material provided with the framework documents to the NZET and RAINE committees on 7 February 2022](#) sets out the stakeholder engagement that has taken place in the development of the framework. The covering material reports the following stakeholders as being involved in the development of the framework and associated Concordat:

- The Department for Environment, Food and Rural Affairs
- Scottish Government
- Welsh Government
- Northern Ireland Department of Agriculture Environment and Rural Affairs
- Northern Ireland Department for the Economy
- The Health and Safety Executive
- The Environment Agency.

The covering material also notes stakeholders that were provided with an advance copy of the framework and responded to a technical consultation:

- British Pest Control Association (BPCA)
- British Adhesives and Sealants Association (BASA)
- Amenity Forum
- Pesticides Action Network UK (PAN UK)
- Chemical Industries Association (CIA)
- FIDRA
- CHEM Trust
- Cosmetic, Toiletry and Perfumery Association
- Scottish Water
- Ulster University
- RSPB
- Food and Drink Federation (FDF)

The covering material notes the key issues raised by "technical stakeholders" included:

“...questions around the process or policy, rather specific to the documents as drafted. There were detailed questions on how the parties had worked together, and governance. There were also a number of questions about Northern Ireland, where businesses will have to comply with EU REACH. It was questioned why the Environment Agency was a party to the Common Framework, but other regulators such as SEPA were advisors.”

The covering material notes that stakeholder engagement did not result in substantive changes to the framework.

## Post-Implementation of the Framework

The covering material in the framework documents indicate that technical stakeholders will be written to for further comment once the framework is approved and published. It is unclear from the covering material whether this stakeholder engagement is taking place now the framework has been published or if such stakeholder engagement will take place after approval at Phase 5.

The framework makes specific provisions for stakeholder engagement as part of the [joint decision making](#) arrangements and the [review and amendment](#) mechanism. There is an indication in the framework that stakeholder engagement will be reviewed and adapted to ensure Parties to the frameworks are aligned in their approaches for engaging with industry. Stakeholder engagement is also considered in [international trade and World Trade Organisation requirements](#).

The framework also notes certain underlying principles for parliamentary and stakeholder communication and engagement more generally. These include that clear communication is important for the operation of the UK chemicals policy area and the clarification that Parties to the framework can communicate with stakeholders independently using current methods of engagement. However, the framework also indicates Parties should refrain from policy announcements affecting areas of devolved competence until those policies have been formally agreed by the Parties concerned.

The framework's Concordat is intended to support best practice in stakeholder engagement for the chemicals policy area in the GB and UK contexts. The Concordat also states:

“ The Parties acknowledge there is a separate set of stakeholders not party to this Common Framework who have a key interest and role in delivering the UK chemicals regime. These include but are not limited to: other UK Government (UKG) departments, HSE Northern Ireland (HSENI), devolved environmental regulators, third sector organisations, public health bodies, relevant trade associations and businesses.”

Specific considerations are given to stakeholder engagement intended to facilitate ensuring that trade obligations can be met:

“ The UK has taken up new obligations as an independent World Trade Organisation (WTO) member. Cross-departmental processes have been developed by Defra to ensure any new obligations are fulfilled, including consulting stakeholders on Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) measures, notifying the committee of any change in SPS or TBT measures, responding to other nations’ queries during the consultation period, and actively participating in committee work.”

## Detailed overview of proposed framework: legislation

This section provides information on the legislation associated with the framework.

### Regimes and regulations within scope

The elements of retained EU law in this area that intersect with devolved competence, and relevant international conventions and agreements, where applicable are:

- [Regulation \(EC\) No 1907/2006](#) of the European Parliament and Of the Council of 18 December 2006 concerning the **Registration, Evaluation, Authorisation and Restriction of Chemicals (EU REACH Regulation)**.
- [Regulation \(EC\) No 648/2004](#) of the European Parliament and of the Council of 31 March 2004 on **detergents** (as amended).
- [Regulation \(EC\) No 1272/2008](#) of the European Parliament and of the Council of 16 December 2008 on **classification, labelling and packaging of substances and mixtures (CLP Regulation)**. Implements the United Nations **Globally Harmonized System of Classification and Labelling of Chemicals (GHS)**.
- [Regulation \(EU\) No 528/2012](#) of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of **biocidal products (BPR Regulation)**.
- [Regulation \(EU\) No 649/2012](#) of the European Parliament and of the Council of 4 July 2012 concerning the **export and import of hazardous chemicals (PIC regulation)**. Implements the **Rotterdam Convention**.
- [Regulation \(EC\) No 1107/2009](#) of the European Parliament and of the Council of 21 October 2009 concerning the **placing of plant protection products on the market (PPPs Regulation)**.
- [Regulation \(EU\) 2019/1021](#) of the European Parliament and of the Council of 20 June 2019 on **persistent organic pollutants (POPs regulation)** and Council Directive 96/59/EC of 16 September 1996 on the **disposal of polychlorinated biphenyls and polychlorinated terphenyls (PCB/PCT)**, **Stockholm Convention**.
- [Regulation \(EU\) 2017/852](#) of the European Parliament and of the Council of 17 May 2017 on **mercury (Mercury Regulation)**. Implements the **Minamata Convention**.
- [Regulation \(EC\) No 1013/2006](#) of 14 June 2006 on shipments of **waste, Basel Convention**.

- [Regulation \(EC\) NO 396/2005](#) of the European Parliament and Of The Council of 23 February 2005 on **maximum residue levels of pesticides in or on food and feed of plant and animal origin** and amending Council Directive 91/414/EEC.
- [Regulation \(EU\) 2017/625](#) of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the **application of food and feed law, rules on animal health and welfare, plant health and plant protection products**.
- [Directive 2009/128/EC](#) of the European Parliament and of the Council of 21 October 2009 establishing a **Framework for Community action to achieve the sustainable use of pesticides**.

## UK Registration, Evaluation, Authorisation and Restriction of Chemicals

The [Environment Act 2021](#) gives the UK Government Secretary of State for Environment, Food and Rural Affairs the power to amend the [UK REACH Regulations](#) and the [UK REACH Enforcement Regulations](#). Statutory instruments made by the Secretary of State under these powers will be subject to the consent from the Scottish Government and Welsh Government. The Environment Act 2021 also contains powers for the Scottish Government, Welsh Government, and relevant Northern Ireland Executive Departments to make regulations to amend the UK REACH Enforcement Regulations.

The [covering material provided to the RAINE and NZET committees on 7 February 2022](#) notes that one of the main challenges in developing the framework has been around Northern Ireland where businesses have to comply with EU REACH. In addition, the covering material states:

“ The UK Government has announced that it will consider changes to the UK REACH regime. The Minister for Environment and Land Reform has written to the UK Government making clear that it is essential that stakeholders are satisfied that these proposals will not result in a weakening of the level of protection afforded to the environment and human health and that there is no shifting of the burden of proof of safe use from the industry to the regulator, for the work to progress to legislative change in the future.”

## International Obligations

In addition to the international agreements that are implemented by retained EU law, there are some additional international considerations and obligations.

### International trade and World Trade Organisation requirements

- The UK is an independent World Trade Organisation (WTO) member. Cross-departmental processes have been developed by Defra to ensure Parties to the framework fulfil the UK's WTO obligations, including consulting stakeholders on Sanitary and Phytosanitary (SPS) and Technical Barriers to Trade (TBT) measures.

### Sanitary and Phytosanitary (SPS) governance



- Sanitary (human and animal health) and phytosanitary (plant health) governance refers to measures intended to ensure food is safe for consumers and prevent the spread of pests or diseases among animals and plants.
- The devolved Governments and Defra World Trade Organisation Operations and Trade Measures Board includes trade leads, and SPS policy and delivery body experts from all four UK governments. Where appropriate, the Board and its representatives will engage and communicate with [the relevant official level groups within this framework](#).
- The Parties to the framework agree to facilitate early engagement on relevant policy development, such as:
  - developing a policy within the SPS context which will impact international trade or differ from international standards; and
  - work relating to Market Access issues or barriers within the SPS context.

### **Technical Barriers to trade governance**

- The Department of International Trade (DIT) represents UK interests in WTO in relation to technical barriers to trade (TBT), including the WTO TBT Committee. DIT has processes and structures to seek the views of industry and other interested parts of the UK Government in relation to its TBT activities.

### **Strategic Approach to International Chemicals Management**

The framework also notes the [Strategic Approach to International Chemicals Management \(SAICM\)](#) is a global and voluntary, multi-sectoral and multi-stakeholder framework which sets the direction of international chemicals and waste policy. As such, it is not implemented in any relevant retained EU law and is just noted here for reference.

## **Detailed overview of proposed framework: non-legislative arrangements**

Non-legislative arrangements will consist of an associated Concordat between the Parties. Other agreements are being developed between the four governments and relevant regulators.



# Chemicals and pesticides in practice

## Roles and Responsibilities: parties to the framework

This section sets out the roles and responsibilities of each party to the framework.

The framework lists the following Parties to the framework:

- Department for Environment, Food and Rural Affairs (Defra), UK Government
- Scottish Government (SG)
- Welsh Government (WG)
- Department of Agriculture Environment and Rural Affairs (DAERA), Northern Ireland Executive
- Department for the Economy (DfE), Northern Ireland Executive
- The Health and Safety Executive (HSE)
- The Environment Agency (EA)

The Concordat sets out "Principles of working together" that Parties to the framework are expected to adhere to. These principles include:

- **Communication:** Parties are expected to provide good, consistent and frequent communication.
- **Collaboration:** Parties are expected to aim to provide one another with as full and open as possible access to information and research.
- **Stakeholder Engagement:** Parties agree to deliver timely and consistent messages to stakeholders by using their current methods of stakeholder engagement.

In addition, the framework sets out that Parties are expected to comply with deadlines, clearance processes and ensure Parties all have access to the relevant draft documents when working collaboratively. The Parties agree policy announcements affecting areas of devolved competence will not be made until the policies being announced have been formally agreed by the Parties concerned. The framework also indicates that work programmes and business plans should be agreed and reviewed regularly to ensure all Parties can manage their resources effectively.

## Confidentiality and information sharing

The framework notes that information sharing between parties to the framework is expected. Specifically, it is expected that each government will aim to provide each other with full and open access to scientific, technical and policy information (including statistics and research), and where appropriate, representations from third parties. The framework also notes that Parties have a collective responsibility to deliver official statistics and

respond to requests from Ministers.

The framework notes some circumstances where additional considerations need to be made with regards to confidentiality and limitations on information sharing. For example, the framework highlights that certain EU regimes will continue to apply in Northern Ireland which may mean there are limitations on information sharing between the Northern Ireland Executive and other Parties.

It is also expected that Parties to the framework will receive requests for information from the public via Freedom of Information Act 2000 (FOIA) or Environmental Information Regulations 2004 (EIRs) requests. Similarly, members of the public may seek information from public authorities under Data Protection legislation (UK General Data Protection Regulation 2016/679 and Data Protection Act 2018). In these circumstances, it is the responsibility of the Party receiving a request to consult the relevant information suppliers (which may include Parties to the framework) for the requested information and receive consent to disclose the information.

## Roles and responsibilities: existing or new bodies

This section sets out the roles and responsibilities of any bodies associated with the framework which already exist, or which are to be created.

The framework sets out a governance structure consisting of officials, senior officials, Ministers, and regulators. The UK and devolved governments are expected to set the strategic direction for the UK regulatory regime, enabling and encouraging collaboration between the relevant bodies to ensure that existing environmental and human health standards are maintained or exceeded where possible. The framework notes the governance structures can also accommodate cross-cutting factors that will have an influence, including international sub-groups, stakeholders and communications.

### Officials and delivery boards

Officials are expected to hold discussions on policy as part of day-to-day business and report advice to Ministers with the rationale for the approach taken within a policy area. If officials do not agree in day-to-day discussions when making decisions, or if the decision is of appropriate significance to necessitate being raised at a decision-making board, issues discussed at a working level can be escalated initially to the relevant delivery board or the UK Chemicals Governance Group (UKCGG). If necessary, the issue can be escalated to senior officials in line with the framework [dispute avoidance and resolution mechanism](#).

The framework lists three delivery boards and their associated chemicals regimes:

- Chemicals Delivery Board (CDB)
  - UK REACH strategic priorities
  - Issues relating to detergents,
  - International conventions for Prior Informed Consent (PIC), Persistent Organic Pollutants (POPs) and mercury<sup>vi</sup>

- Global Harmonised System (GHS) classification labelling and packaging
- Pesticides Delivery Board (PDB)
  - Plant Protection Products (PPP)
  - Maximum Residue Levels (MRLs)
  - GHS classification labelling and packaging
- Biocides Delivery Board (BDB)
  - Biocides specific groups
  - Government oversight for rodenticide stewardship
  - GHS classification labelling and packaging.

Officials across the Parties will convene at the delivery board groups to discuss policy issues as appropriate, and to keep colleagues regularly informed of any ramifications that policy will have across the UK and Devolved governments. These groups feed into the overarching UKCGG.

### **Independent advisory groups**

Independent advisory groups advise the relevant Parties through correspondence, and this advice is reflected in the way issues are then brought to the associated delivery boards.

The independent advisory groups associated with this framework are:

- Expert Committee on Pesticides Residues in Food (PRiF)
- UK Expert Committee on Pesticides (ECP)

Both advisory groups provide advice to the Plant Protection Products Delivery Board (PDB).

## **Senior officials and UK Chemicals Governance Group**

### **UK Chemicals Governance Group**

The role of the UK Chemicals Governance Group (UKCGG) is to develop the UK view on the prioritisation of the chemicals work programme and provide a strategic steer on deployment of available resources. Membership is comprised of DEFRA, the Health and Safety Executive, Environment Agency and Devolved Governments. The UKCGG can escalate decisions and issues to Ministers.

Senior officials represent the Parties at the UKCGG. The UKCGG is expected to meet quarterly.

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vi The Basel convention is covered under international updates at the CDB, but primarily feeds into the waste governance boards which sit within the Resources and Waste Common Framework.

## Senior Officials Programme Board

The Senior Official Programme Board (SOPB) is made up of senior officials from each government and appears to be a feature of framework governance structures for most Environment, Food and Rural affairs (EFRA-related) common frameworks. The SOPB and IMG-EFRA<sup>vii</sup> sit above framework-specific governance structures for the following frameworks:

- Agricultural support
- Animal health and welfare
- Air Quality
- Plant varieties and seeds
- Integrated pollution prevention and control: developing and setting of Best Available Techniques (BAT)
- Fertilisers
- Plant health
- Organics
- Chemicals and pesticides
- Fisheries management and support
- Ozone Depleting Substances (ODS) and Fluorinated Greenhouse Gases (F-gases)

Some framework documents contain [virtually no information about the SOPB and its membership](#) whereas others [contain full terms of reference](#). Legislatures have asked questions about how the membership of the SOPB [differs from other framework forums](#), [its role in dispute resolution](#), and [its additional tasks](#).

The primary role of the SOPB appears to be to sift disputes before they are escalated for Ministerial attention. In response to a letter by the House of Lords Common Framework Scrutiny Committee, George Eustice, MP Secretary of State for Environment, Food and Rural Affairs, [further stated](#) that:

“ [the SOPB] can also play a role in helping to avoid the need for a dispute to be referred to ministers, for example if a resolution and consensus can be achieved at the SOPB.”

## Ministers

Ministers' roles and responsibilities include, but are not limited to, approving policies and strategies, and approving priority-setting to provide high-level policy direction. In line with the governance structure, Ministers are responsible for decision-making processes above senior official level.

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vii Inter-ministerial Group for Environment, Food and Rural Affairs

Ministers are also responsible for [review and amendment](#). Ministerial consideration of issues as part of the [dispute avoidance and resolution mechanism](#) could be via several media, including by correspondence or the Inter-Ministerial Group for Environment, Food and Rural Affairs (IMG-Efra) for Efra regimes.

### Inter-Ministerial Group for Environment, Food and Rural Affairs

The Inter-Ministerial Group for Environment, Food and Rural Affairs (IMG-EFRA) is a Ministerial body related to the [dispute avoidance and resolution mechanism](#). At IMG-EFRA, Ministers consider matters in dispute that are related to Environment, Food and Rural Affairs (EFRA) regimes (i.e. Those regimes where Defra is the UK Government policy lead).

## Regulators

### Health and Safety Executive

#### *Policy role*

The Health and Safety Executive (HSE) holds a policy and operational role within this framework. HSE is the UK Government policy lead for the following chemicals regimes:

- classification, labelling and packaging (CLP)
- prior informed consent (PIC)
- biocides

The framework also refers to these regimes as **non-EFRA** regimes. Responsibility for these areas falls within the portfolio of the Secretary of State for the Department of Work and Pensions and the relevant counterparts in the devolved governments.

#### *Operational Role*

The HSE has an operational role in the following chemicals regimes:

- Registration, Evaluation, Authorisation and Restriction of Chemicals (UK REACH)
- classification, labelling and packaging (CLP)
- prior informed consent (PIC)
- biocides
- plant protection products (PPP)
- detergents

HSE enforces the above regimes for the UK and devolved governments. The operational role(s) in these regimes derive from the relevant legislation and [agency agreements](#).

## Environment Agency

The Environment Agency (EA) supports HSE in its role as the agency under UK REACH by providing expert advice on environmental issues, and where relevant, other chemical and pesticides regimes. EA collaborates with the other environmental regulators across Scotland, Wales and Northern Ireland as appropriate when formulating its advice to HSE.

The relevant regulators in the devolved governments are:

- Scottish Environmental Protection Agency (SEPA)
- Natural Resources Wales (NRW)
- Northern Ireland Environment Agency (NIEA)

## Decision-making

This framework regards the decision making process as a mechanism to manage policy divergence and identify a UK-wide approach as appropriate.

The lowest level of joint decision-making between Parties to the framework will be at the delivery board level. Strategic decisions can be made at senior official level (via the UKCGG). The framework allows any Party to escalate a decision to the UKCGG if they feel it requires such scrutiny. Ministers will make higher-level decisions as necessary, and if issues have been escalated to them.

The UK and devolved governments are expected to engage with regulators to ensure that the necessary information to make the required decisions is obtained and shared effectively. Timelines for reaching a decision should be agreed by all required Parties and take account of the obligations outlined in relevant regulations. These timelines are also expected to take the urgency of the matter and clearance processes into account.

The [dispute resolution process](#) can be used if there is a difference of opinion and no agreement between Parties can be reached.

## Areas of Joint Decision Making

### Work programme and priority setting

Priorities for work programmes are expected to be reviewed by the UKCGG to enable the functioning of the UK chemicals regime. Parties to the framework, including the Health and Safety Executive (HSE) and Environment Agency (EA), should provide information and reports to enable this.

Priority-setting is noted in the framework as one of the core functions of the framework governance arrangements. Parties are expected to monitor changes in the national and international context and provide high-level policy direction (subject to approval by Ministers across UK and devolved governments). The framework notes this is intended to serve as a mechanism by which to identify a UK-wide approach as appropriate.

### Resource allocation

Differences in regulation across the UK could have regulatory, policy and financial impacts which need to be fully considered. The HSE, EA and other relevant regulators or advisors may face resource constraints that Parties to the framework are expected to consider. These constraints include:

- time constraints which are detailed in regulation;
- resource and funding constraints that the regulators will face with respect to balancing priorities between the UK Government and devolved governments(s) and
- establishing mechanisms to maintain the ability to monitor and take account of EU recommendations.

## Monitoring and enforcement

The framework notes monitoring will occur to ensure:

- meeting statutory responsibilities and international obligations to protect the environment, animal health and human health are being met by Parties to the framework;
- transparent assessment and agreement on resources;
- all Parties are fulfilling their duties under the Concordat.

The framework also notes that existing monitoring and enforcement practices for environmental standards will also be kept under review. The outcomes of the monitoring process are expected to be used to inform [joint decision-making](#) and the [review and amendment process](#). If there is an unresolved disagreement, the [dispute avoidance and resolution mechanism](#) should be used.

## Review and amendment

The review and amendment mechanism (RAM) is intended to ensure the framework is able to adapt to changing policy and governance environments. The framework indicates the process is Minister-led and intended to rely on consensus at each stage of the process.

At the outset of the review stage, the parties must agree timelines for the process, including the possible amendment stage. The framework allows for third parties to be involved in an advisory capacity at the invitation of any party to the framework. These include other government departments or bodies as well as external stakeholders. If a decision is not reached in either the review or amendment stage, parties to the framework can raise it through the framework [dispute avoidance and resolution process](#).

The framework notes that the first review will take place six months after the finalised framework has reached Phase 5. There are two types of review, periodic and exceptional, that can take place within the framework. The process for agreeing amendments should be identical regardless of the type of review and is set out in the framework as follows.

## Review stage

- Periodic review: the operation of the framework should be reviewed every three years and held in line with official or ministerial level meetings.
  - The period of three years starts from the conclusion of a periodic review and any amendment stages that follow.
  - During the periodic review, parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous three years need to be reflected in an updated non-legislative agreement.
- Exceptional review: an exceptional review of the framework is triggered by a 'significant issue'.
  - A significant issue must be time sensitive and fundamentally impact the operation or the scope of the framework. The Concordat also notes that policy differences which lead to economic, societal, or environmental difficulties for Northern Ireland, under the Northern Ireland Protocol would constitute a significant issue.
  - This kind of review may include a review of governance structures if all parties agree it is required. Otherwise, these issues are handled in the periodic review.
  - The same significant issue cannot be discussed within six months of the closing of that issue.

## Amendment stage

Following the parties jointly deciding to enter the amendment stage, parties will enter into discussion around the exact nature of the amendment. This can either be led by one party to the framework or all.

If an amendment is deemed necessary during either type of review, the existing framework will remain in place until a final amendment has been agreed.

All amendments to the framework must be agreed by all parties and a new Concordat signed by all parties. If agreement cannot be reached on whether or how a framework should be amended this may become a disagreement and, as such, could be raised through the framework [dispute avoidance and resolution mechanism](#).

## Dispute resolution official level

This section considers the dispute resolution process set out within the framework.

The dispute resolution process expects that the relevant [delivery board\(s\)](#) will consider the disagreement first. If an issue is not resolved at this level, it will be escalated for discussion at the [UK Chemicals Governance Group \(UKCGG\)](#). The delivery board can also commission work to ensure the disagreement has been fully explored. The framework and Concordat note that it is expected that attempts to resolve disagreements and disputes will be resolved at these official level forums (i.e. delivery boards and UKCGG) without escalation where possible.



The intended role of the UKCGG within the dispute resolution process is to reach consensus where there are different views among the Parties. If agreement is not reached at the UKCGG level, then the UKCGG informs the Parties that the dispute resolution process has been initiated and escalates the issue to senior officials.

The group of senior officials that the issue is escalated to differs depending on whether the disagreement in question regards an EFRA regime or a non-EFRA regime (i.e. a regime led by the Health and Safety Executive; HSE).

- **EFRA regime:** the issue is escalated to the Senior Officials Programme Board (SOPB). If there is no resolution, the issue is escalated to Ministers for consideration at the inter-ministerial Group for Environment, Food and Rural Affairs (IMG-EFRA).
  - The Concordat notes some additional arrangements for EFRA regimes:
    - Senior officials from HSE may be required to attend SOPB if the disagreement involves the operational role of HSE in EFRA regimes. HSE is expected to remain neutral in any dispute resolution procedures between the four governments.
    - At the IMG-EFRA (or Ministerial level, more generally), Ministers acting on behalf of HSE may also be asked to participate.
    - Ministers reserve the right to a way forward outside of the IMG-EFRA forum.
- **Non-EFRA regime:** the issue is escalated to the relevant Senior Officials. If there is no resolution, the issue is escalated to the relevant Ministers.

The framework notes some additional considerations regarding dispute resolution:

- alternative views (where two or more of the Parties take differing views or interpretations of a particular issue) or an inability for the Parties to agree a common interpretation may trigger the dispute resolution process;
- any alternative views may be resolved at the level at which they occur and do not necessarily have to be escalated to instigate the dispute resolution process;
- agreement to disagree is acceptable unless this causes disruption, has a detrimental effect on the operation of any of the chemicals' regimes to which the framework relates, or negatively impacts the ability to meet the JMC(EN) Framework principles;
- where issues or concerns raised by the relevant Northern Ireland Ministers in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue.

In the event of no agreement between Parties at Ministerial level, the matter will be escalated to [inter-governmental structures](#) as a last resort.

## Dispute resolution Ministerial level

It is anticipated that recourse to resolution at Ministerial level will be as a last resort and only sought where [dispute resolution at official level](#) has failed. Disputes which reach

Ministerial level will be resolved through intergovernmental dispute resolution mechanisms. Relevant intergovernmental disputes may concern the ["interpretation of, or actions taken in relation to, matters governed by \[...\] common framework agreements"](#).

Intergovernmental dispute resolution mechanisms were considered as part of the [joint review on intergovernmental relations](#). The [conclusions of the joint review](#) were published on 13 January 2022 and set out a new approach to intergovernmental relations, which the UK Government and devolved governments have agreed to work to. The joint review created a new three-tiered system for intergovernmental discussions, doing away with the old Joint Ministerial Committee structure.

# What will intergovernmental relations look like?

Proposed outline of new intergovernmental relations structure

## Top tier:

The Council

This is made up of the Prime Minister and heads of devolved governments.

## Middle tier:

Standing committees		
The Interministerial Standing Committee (IMSC)	The Finance Interministerial Standing Committee (F:ISC)	Additional interministerial committees
Ministers responsible for IGR consider issues that cut across different policy areas, and facilitate collaborative working between groups in the lowest tier.	Will comprise Finance Ministers and consider finance and funding matters.	These committees might be formed temporarily to consider issues that would otherwise be in the remit of IMSC, but which require special consideration.

## Lowest tier:

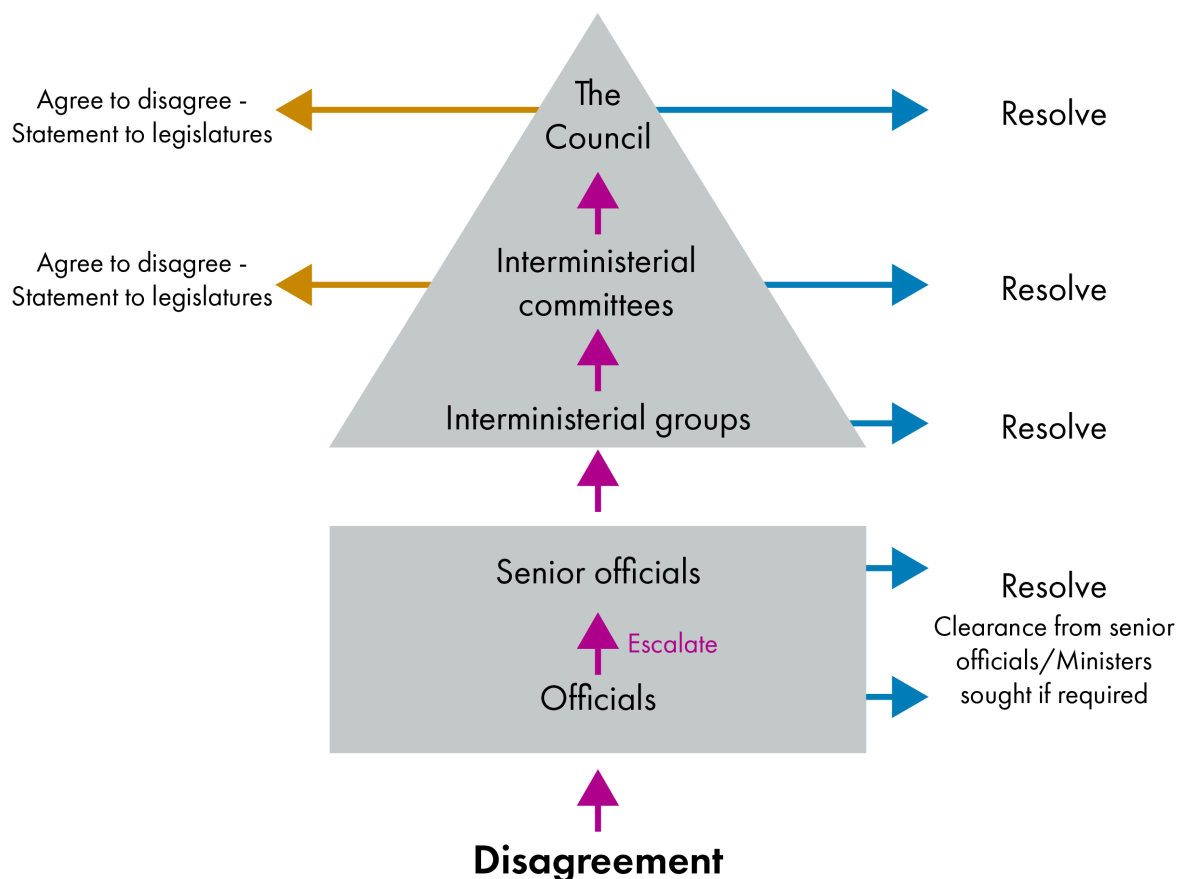
A number of interministerial groups (IMG) will be formed to discuss specific policy areas, such as on transport, Net Zero, and the Trade and Cooperation Agreement with the EU.

The lowest and middle tiers have [specific responsibilities for common frameworks](#). At the lowest tier, interministerial groups (IMGs) are responsible for particular policy areas, including common frameworks falling within them. At the middle-tier, the Interministerial Standing Committee (IMSC) is intended to provide oversight of the common frameworks programme.

The new IGR dispute resolution process follows on from the process at the official level. If a dispute cannot be resolved at the official level as set out in individual frameworks, it is escalated to the Ministerial level. The diagram below illustrates the general dispute resolution process for frameworks, including discussions between officials (square) and Ministers (triangle).<sup>viii</sup>

viii [A slightly different dispute resolution process](#) applies for disputes of a financial nature, which involve the Finance Interministerial Standing Committee.

## Dispute Resolution at official and Ministerial levels



At the lowest level, interministerial groups comprising portfolio Ministers attempt to resolve the disagreement. If their attempts are unsuccessful, the issue can be escalated to an interministerial committee. If the interministerial committee is unsuccessful in resolving the issue, it can either agree to disagree, in which case each government makes a statement to their legislature to or escalate the dispute further. If a dispute is escalated to the highest level, third-party advice or mediation should normally be sought and made available to the Council. If the Council fails to find agreement, it is again required to make a statement to their legislatures.

The new process includes more extensive reporting requirements about disputes. The IGR secretariat is required to report on the outcome of disputes at the final escalation stage, including on any third-party advice received. Each government is also required to lay this report before its legislature.

The Office for the Internal Market (OIM) can provide expert, independent advice to the UK Government and devolved governments. Its advice and reports may, however, be used by governments as evidence during a dispute on a common framework.

Rachel Merelie of the OIM explained the position whilst giving evidence to the [House of Lords Common Frameworks Scrutiny Committee in November 2021](#):

“ The OIM is not involved in dispute resolution. We are here to provide advice to government, using our economic and technical expertise...It is of course possible...that our reports are considered in some shape or form as evidence in support of that process, and we remain open to being used in that way.”

## Implementation

The framework was provisionally confirmed and published on 3 February 2022. UK legislatures now have the opportunity to scrutinise the framework and raise any concerns with their respective government.

If scrutiny and any subsequent reappraisal of the framework leads to significant changes, the provisional framework may need to undergo further collective agreement before final confirmation and implementation.

# Annex A: Agency Agreements

The below [agency agreements are available on the HSE website](#).<sup>ix</sup>

- Agency agreement between Scottish Ministers and The Health and Safety Executive (HSE) relating to biocidal products. Date in force: 12/02/21
- Agency agreement between the Secretary of State for Work and Pensions and the Health and Safety Executive (HSE) relating to biocidal products. Date in force: 12/02/21
- Agency agreement between the Welsh Ministers and the Health and Safety Executive (HSE) relating to biocidal products. Date in force: 12/02/21
- Agency agreement between the Welsh Ministers and the Health and Safety Executive (HSE) relating to pesticides. Date in force: 12/02/21
- Agency agreement between Scottish Ministers and The Health and Safety Executive (HSE) relating to pesticides. Date in force: 12/02/21
- Agency agreement between The Secretary of State for Environment, Food and Rural Affairs (Defra) and The Health and Safety Executive (HSE) relating to pesticides. Date in force: 12/02/21
- Agency agreement between the Secretary of State for Environment, Food and Rural Affairs (Defra) and the Health and Safety Executive (HSE) relating to detergents. Date in force: 12/02/21
- Agency agreement between the Department for the Economy in Northern Ireland (DfE), the Health and Safety Executive for Northern Ireland (HSENI) and the Health and Safety Executive (HSE) relating to biocidal products. Date in force: 22/11/21
- Agency agreement between the Department for the Economy Northern Ireland (DfE), the Department of Justice Northern Ireland (DoJ NI) and the Health and Safety Executive (HSE) relating to the classification, labelling and packaging of substances and mixtures. Date in force: 22/11/21
- Agency agreement between the Department for the Economy in Northern Ireland (DfE) and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA) and the Health and Safety Executive (HSE) relating to the registration, evaluation, authorisation and restriction of chemicals. Date in force: 22/11/21

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<sup>ix</sup> To note, the three current Plant Protection Products Agency Agreements are due to be re-drafted and re-issued, and a further Plant Protection Products Agency Agreement for Northern Ireland is due to be signed and come into force. Upon signing they will be added into this Common Framework.

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