

# Provisional common framework: Food and feed safety and hygiene

## Research Briefing

October 2021



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# 1. Introduction

## 1.1. What are common frameworks?

The UK and devolved governments have **agreed to establish common frameworks** to manage divergence between different parts of the UK in some policy areas previously governed at EU level.

The **UK Government categorises common frameworks** into 'legislative' and 'non-legislative' categories. In practice, common frameworks are generally non-legislative agreements, although they may be underpinned by legislation. Each common framework is different, but they typically set out processes for the UK's governments to decide when to take the same approaches to law and policy and when to diverge.

The governments are currently planning **26 common frameworks for Wales**, most of which are now in operation on a provisional basis. So far, **only seven have been published for scrutiny**.

This briefing looks at how the provisional framework on food and feed safety and hygiene could shape future Welsh law and policy in this area. The authors are grateful to all those who provided comments on earlier drafts of this paper.

## 1.2. The food and feed safety and hygiene framework

The provisional **Food and Feed Safety and Hygiene common framework** was published on 27 November 2020, following provisional agreement by the UK and devolved governments. Between December 2020 and March 2021, the Senedd's **External Affairs Committee carried out initial scrutiny** of the framework.

The framework is made up of a 'Framework Outline Agreement' and a 'Concordat'. The Framework Outline Agreement sets out arrangements for joint working. The Concordat sets principles for working between the governments and will be formally agreed by Ministers.

The framework sets out how the UK and devolved governments will work together to decide where to align and diverge in the regulation of food and feed safety and hygiene post-Brexit. It is one of the more complex and wide-ranging frameworks, reflecting the breadth of this policy area, but shares common features with most other published frameworks.

This briefing considers:

- the policy context in Wales and across the UK;
- retained EU legislation in this area and the transfer of functions from EU to domestic authorities;
- how the framework aims to manage regulatory divergence and interacts with the UK Internal Market Act 2020;
- how the framework aims to manage the implementation of international obligations and devolved representation at an international level;
- how stakeholders have been able to engage with the framework; and
- how the framework will be reviewed and revised in the future.

The governments acknowledge that the **framework is a work in progress.** Negotiations continue on how common frameworks should interact with:

- the **UK Internal Market Act 2020**;
- **intergovernmental structures**; and
- **international obligations.**

The Senedd is expected to play an ongoing role in scrutinising the operation of the framework.

## 2. Policy context

EU retained law provides a framework for law and policy on food and feed safety and hygiene. Following the end of the **transition period** on 31 December 2020, the UK and devolved governments now have autonomy to regulate separately and differently from the EU. The four governments each have different approaches to this.

### 2.1. EU law and policy

EU food and feed safety and hygiene (FFSH) legislation is largely a **harmonised area of EU law**, covering:

- general food and feed safety;
- food and feed safety standards;
- official controls; and
- public health controls on imported food.

EU law on food and feed safety does three main things:

- establishes general principles for how food and feed safety should be regulated;
- sets out specific rules in some areas (such as public health controls for imports of food); and
- provides for some products to be authorised at EU level before they can be put on the market (such as food additives).

UK and Welsh domestic legislation enforces and implements this law and sets out how **incidents of unsafe food or feed** should be managed.

### 2.2. Future law and policy across the UK

The four governments of the UK all have different approaches to aligning with, or diverging from, EU law and policy in future:

- During the UK-EU negotiations, the **last Welsh Government indicated** that it wanted to see continued alignment with EU law. However, the current Welsh Government has not set out a position on this.
- The UK Government has established a **Taskforce on Innovation, Growth and Regulatory Reform (TIGRR)**. TIGRR has published a report proposing where



divergence might provide opportunities, including changing regulation of animal feed and gene-editing in agriculture. The **UK Government responded** to this report in September 2021.

- The Scottish Government intends to continue to align with EU law in many areas, using powers in the **UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021**.
- Northern Ireland will continue to align with EU law where required under the **Protocol on Ireland-Northern Ireland** (Northern Ireland Protocol). This includes FFSH law. Food and feed produced in Great Britain must comply with EU law to be sold in Northern Ireland

The Welsh Government has not set out plans for changes to FFSH policy following the end of the transition period. It is currently between long term food and drink strategies.

In July 2020, the previous Welsh Government **launched** a short-term **Covid-19 recovery plan** (12-18 months) for the industry. The recovery plan bridges the **2014-2020 food and drink action plan** and the proposed **longer-term strategy**, consulted on in 2019. Work on the new strategy has been paused as a result of the response to the pandemic. The **new strategy is expected to be published later in 2021**.

## 3. Legislation

While the UK was a member of the EU, UK and devolved authorities had to comply with EU law on food and feed safety. The UK Government legislated in the EU (Withdrawal) Act 2018 to **'retain' most EU law** and to allow the governments to 'correct' this retained law by regulations to enable it to work in a domestic context.

EU authorities previously carried out a range of regulatory functions on behalf of the UK in relation to food and feed safety. The **UK** and **Welsh Government** have made a large number of regulations to 'correct' retained EU FFSH law, transferring these functions to domestic bodies. The **Food Standards Agency (FSA) consulted** on its approach to correcting FFSH law in 2018.

FFSH regulation is in scope of the Northern Ireland Protocol. Under the Protocol, relevant EU FFSH law continues to apply in Northern Ireland, but not to the rest of the UK. Correcting legislation was amended before the end of the transition period to reflect this.

### 3.1. Retaining EU law: transfer of functions

#### Ministerial powers

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Correcting legislation transfers powers from the European Commission to Ministers in each part of Great Britain (GB). These include powers to make changes to FFSH law by secondary legislation and to grant pre-market approvals and authorisations for products.

Under EU law, the EU Commission is required to seek the advice of committees of representatives of Member States in making certain decisions, such as pre-market authorisations for products. This is known as comitology. Using the procedure in **European Council Decision 1999/468/EC**, the Commission must submit proposed decisions to the committee for approval. The committee is supported by expert working groups. If the committee does not approve the measures, they must be referred to the European Council and the European Parliament must be informed.

The framework notes that the FSA represented the UK at relevant committees while the UK was in the EU, formulating a UK position in consultation with the UK and devolved governments. It states that 76 decisions were taken in 2016.

Correcting legislation removes the comitology procedure. It retains the principle of transparency provided by Article 9 of **Regulation (EC) No. 178/2002**. This states

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that there will be open and transparent public consultation during the preparation, evaluation and revision of food law, except in urgent circumstances.

## Food Standards Agency

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The European Food Safety Authority (EFSA) provides scientific advice and risk assessment functions at EU level. The Commission takes EFSA's opinion into account in formulating changes to FFSH policy and authorising products. Correcting legislation transfers risk management functions from the European Food Safety Authority to the FSA and Food Standards Scotland (FSS).

The FSA is a non-ministerial department of the UK Government. It is responsible for developing and implementing food and feed safety policy in England, Wales and Northern Ireland. FSS is responsible for food and feed safety in Scotland. There is a **Memorandum of Understanding** between the FSA and FSS.

### **Example: The Genetically Modified Food and Feed (Amendment etc) (EU Exit) Regulations 2019**

The UK Trade Policy Observatory briefing **Brexit food safety legislation and potential implications for UK trade** (November 2019) provides an overview of changes in corrections to EU law in some areas of food and feed safety, giving the law on authorisations of genetically modified organisms (GMOs) as an example. It notes that the statutory instrument replaces:

- EFSA with food safety authorities in each UK nation;
- the Commission and Standing Committee's roles in authorisations and amending non-essential elements of the legislation with Ministers;
- the Commission's role in administration of the regime with the FSA for submission of monitoring reports;
- the 'Community reference laboratory' with a reference laboratory or 'public analyst', at ministerial discretion.

The authors argue that this represents a reduction in checks and balances on ministerial power, compared to the original EU law.

The UK Government's **explanatory memorandum to the statutory instrument** states that it makes 'minor and technical amendments' to 'correct deficiencies that arise as a consequence of the UK exiting the EU.'

The **Welsh Government consented** to the instrument on the basis that '[t]here is no divergence between the Welsh Government/FSA Wales and the UK Government (FSA UK) on the policy for the corrections'.

## 3.2. Key issues

### Legislation listed in the framework

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Annexes 1 and 2 to the framework list the legislation in scope of the framework. This is important for understanding when the framework will apply.

**Annex 2** lists the main retained EU legislation in scope of the framework. Annex 2 lists only retained EU legislation that applies across GB, not for each of the GB nations. For example, it lists the Official Controls (Animals, Feed and Food, Plant Health etc.) (Amendment) (EU Exit) Regulations 2020, but not the Official Controls (Animals, Feed and Food, Plant Health Fees etc.) (Wales) (Amendment) (EU Exit) Regulations 2020.

**Annex 1** to the framework provides an overview of domestic enforcement legislation in some areas of FFSH policy. It names relevant domestic enforcement for England only, noting that '[s]eparate, equivalent regulations are in place in the devolved nations.'

### Future legislation

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The UK Government's September 2020 **common frameworks analysis** lists FFSH as an area where a 'legislative' common framework may be required. It states that:

In order to determine whether a framework is legislative, policy teams assess whether or not there is a clear link to new primary legislation being developed that is essential to give effect to at least some governance elements of the framework, or the policy environment in which the framework will operate, including determining and supplying the subject matter of the framework.

The framework does not say it has any links to new or planned primary legislation. However, it says:

Officials from the four nations will undertake an exercise in 2021 to assess where within FFSH policy areas (within scope of the Framework) it would be beneficial to have concurrent powers available so that one statutory instrument can be used to implement consistent decisions across the UK

‘Concurrent powers’ are equivalent powers granted to UK and Welsh Ministers. They would allow the UK Government to act in devolved areas.

The framework states that any concurrent powers would require the consent of the Welsh Ministers and would ‘likely be limited to certain technical areas.’

Such regulations would not require the consent of the Senedd. Concurrent powers would constitute functions of a Minister of the Crown for the purposes of Schedule 7B to Government of Wales Act 2006. The Senedd would not be able to remove or modify these functions unless the UK Government made a Section 109 Order to remove this constraint.

## Complexity

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Some stakeholders have raised concerns that the framework does not capture the full complexity of EU FFSH law and policy. In evidence to the previous Scottish Parliament’s Health and Sport Committee, **Deputy Director of the Rowett Institute of Nutrition and Health, Professor Paul Haggarty**, said:

The framework provides a good overview of the areas currently covered by the EU and EFSA [...] However, these are mostly presented as lists and it is not clear whether the complex nature of the linkages between these processes has been fully appreciated. The whole area of regulation and enforcement in relation to food and feed safety is immensely complicated and it is not possible to summarise all of the linkages, crossovers, and interdependencies in a high-level document such as this.

He went on to say:

The EU/EFSA mechanisms in relation to food and feed safety regulation, enforcement, etc, have developed organically over decades. They work well but they are enormously complicated. It is possible that the UK may fail to maintain those standards inadvertently by failing to appreciate the full complexity of the process.

In evidence to the Committee, **Professor Haggarty suggested** that the FSA and FSS should engage the EFSA ‘to see whether it considers that anything has been missed’ in the framework’s approach.

## Intersections with other areas of law

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Food and feed safety and hygiene law intersects with health, agriculture and environmental legislation .

The framework recognises that there is ‘cross-over’ between the FFSH framework and the planned frameworks for:

- **food compositional standards and labelling;**
- **nutrition labelling, composition and standards;**
- animal health and welfare;
- plant health; and
- pesticides.

However, other planned frameworks may also be relevant, such as public health protection and security. These frameworks sit across different parts of government. For example, nutrition policy rests with the health portfolio in the Welsh Government, while FFSH is the responsibility of the FSA.

Food and feed safety and hygiene will also interact with other areas of retained EU law where no frameworks are planned. For example, the cultivation of GMOs is not covered by any framework. In the spring, **Defra consulted in England** on stopping certain gene-edited organisms from being regulated in the same way as genetically modified organisms. The UK and devolved governments decided not to pursue a common framework on agriculture (GMOs) in late 2020. This may make it more challenging to monitor and assess alignment and/or divergence in this policy area.

## 4. Managing divergence: principles

The framework sets out non-legislative principles for how the governments will work together to manage divergence. These will operate alongside domestic legal principles that are also likely to affect the scope and degree of future divergence. Both sets of principles are described in this section.

### 4.1. Framework principles

#### Joint Ministerial Committee (JMC) principles

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The UK, Scottish and Welsh Governments **agreed principles for common frameworks** in 2017, including six criteria for determining when common frameworks would be established. The **Northern Ireland Executive endorsed** the principles in 2020.

The FFSH framework states that officials agreed that two of those six principles would be 'of key importance':

- enabling the functioning of the UK internal market, while acknowledging policy divergence; and
- ensuring the UK can negotiate, enter into and implement new trade agreements and international treaties and comply with international obligations.

They also agreed the importance of the principles of:

- respecting the devolution settlements and the democratic accountability of the devolved legislatures; and
- maintaining, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as is afforded by the current European Union rules.

The framework goes on to state that officials agreed a common approach would be preferred across all areas of FFSH that are harmonised at EU level. They agreed that common approaches 'may still result in evidence-based divergence where this is considered appropriate'.

## Framework-specific principles

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In addition to the JMC principles described above, the framework sets out its own specific principles. General principles for shared ways of working can be found in paragraph 5.3 of the framework. These include the principle that:

... all four administrations should have the ability to diverge within their territory (having followed the principles set out in the framework for managing divergence) where the **outputs of risk analysis undertaken by food safety bodies show that divergence is both necessary and proportionate** to the risk to provide appropriate consumer protection in all nations.

The framework also sets out principles for determining whether or not a policy change is in scope of the framework. This is considered further in section 5.2 below.

## 4.2. Legal principles

### Retained EU law

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The **General Food Law (Regulation (EC) No. 178/2002)** sets out principles for EU law on FFSH. These were **retained in domestic law** at the end of the transition period. One of the key principles in the Regulation is the precautionary principle. Article 7 states that:

In specific circumstances where, following an assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure the high level of health protection chosen in [Great Britain] may be adopted, pending further scientific information for a more comprehensive risk assessment.

Such measures must be 'proportionate and no more restrictive of trade than required to protect public health'.

In addition, some EU Regulations within scope of the framework cite the principles of **subsidiarity** and **proportionality** from the Treaty on European Union in their preambles.

The framework does not make reference to these principles and it is not clear what role, if any, they are expected to play in its operation.



## The UK Internal Market Act 2020

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The **UK Internal Market Act 2020** sets out market access principles for goods and services in law. In essence, they aim to ensure that goods sold and services provided in any part of the UK can be sold or provided in any other part. The two market access principles are:

- The **mutual recognition principle for goods:** goods made, or imported into, one part of the United Kingdom, that comply with relevant legislative requirements in that part, can be sold in the other parts of the UK, without having to comply with any relevant legislative requirements in those other parts. This means that food or feed permitted in or imported into any part of the UK can in general be sold in Wales, even if it does not comply with Welsh law.
- The **non-discrimination principle for goods:** prohibits direct or indirect discrimination based on differential treatment of 'local' and 'incoming' goods. This means that Welsh legislative requirements that treat food or feed from another part of the UK differently, and put it at a disadvantage compared to Welsh food or feed, would generally be prohibited.

Schedule 1 of the Act sets out exclusions from the mutual recognition principle for goods. Part 2 of Schedule 1 covers food and feed safety. It sets out that the mutual recognition principle does not apply if five conditions are met:

1. the legislation aims to prevent or reduce the movement of unsafe food or feed into the part of the United Kingdom in which the legislation applies ('the restricting part') from another part of the United Kingdom ('the affected part');
2. it is reasonable to believe that the food or feed covered is, is likely to be, or is at particular risk of being unsafe;
3. the potential movement of food or feed into the restricting part from the affected part would pose a serious threat to the health of humans or animals;
4. the responsible government has provided to the other governments an assessment of the available evidence on the threat to health and the likely effectiveness of the legislation; and
5. the legislation can be reasonably justified as necessary in order to address the threat.

There is no equivalent exclusion for FFSH from the non-discrimination principle for goods. However, for indirect discrimination, section 8 of the Act sets out that a requirement is discriminatory if it puts goods entering one part of the UK at a disadvantage, has an adverse market effect, and cannot reasonably be considered

a necessary means of achieving a legitimate aim. Section 8(6) says that legitimate aims are the protection of the life or health of humans, animals or plants or the protection of public safety and security. This could include food and feed safety.

Section 10 of the Act allows UK Ministers to create new exclusions from the market access principles for goods, including to give effect to an agreement that forms part of a common framework. The framework does not give consideration to the implications of the Act.

The Act could lead to legal disputes as to whether a regulatory requirement on food safety falls within the scope of the mutual recognition or non-discrimination principle.

### 4.3. Key issues

#### Impact of the Internal Market Act

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**Like most other planned common frameworks**, this framework covers legislation that is also in scope of the market access principles in the Internal Market Act. The principles could have an impact on divergent regulatory requirements agreed through the framework.

An **update on the framework presented to the FSA Board** in September 2020 described the interaction of the (then) UK Internal Market Bill with the framework as a 'key area requiring resolution'. It raised two issues in particular. First:

It should be noted that the application of mutual recognition could result in Ministers having to accept food and feed products on the market within their remit that the FSA had advised as being unsafe if Ministers in other parts of the UK had taken different decisions. [...]

For example, it appears that if one government proposed a policy change to lift some restrictions on the sale of GMOs, and a joint risk assessment determined that this was safe, the governments could agree to diverge in different parts of GB. However, under the mutual recognition principle, GMOs that complied with the law in one part of GB could still be sold in another part of GB.

Second, it noted that:

The application of mutual recognition also has the potential, in unforeseen public health emergencies that are not presently covered by legislation, to limit Ministers' ability to act quickly and effectively.

For example, it appears that the Welsh Ministers could propose new requirements for establishments in Wales only, without going through the risk assessment process set out in the framework. This could follow a public health incident, such as the **E. coli outbreak in Wales in 2005**. The Welsh Ministers could argue this was not captured by the market access principles, as it was necessary for the protection of public health. However, this could be open to legal challenge.

In **a letter to the House of Lords Common Frameworks Scrutiny Committee** on 8 January 2021, the Chief Executive of the FSA noted the power in the Act to exclude requirements agreed through common frameworks from the market access principles. She said:

The FSA is currently engaging with Whitehall departments and devolved administrations to ensure we understand how this should be accounted for in the Framework. The Framework already includes a process for managing divergence, which is still valid, though **may need to include an additional step to allow consideration of whether the market access principles should apply in instances where divergent policies are proposed.** [our emphasis]

In March 2021, the **Lords Common Frameworks Committee** recommended that:

... the UK Government should work closely with the devolved administrations to develop a consistent and transparent process for using these powers. It should then update the relevant Frameworks to state clearly how and when they will agree exemptions from the market access principles.

In its response, the **UK Government said that it agreed** and was in discussions with the devolved governments 'with a view to reaching consensus on the ways in which an agreement should be evidenced and whether that could be achieved through updating the relevant Frameworks or via a separate agreement'. In September 2021, the **Welsh Government Counsel General confirmed** that negotiations were ongoing.

The **Institute for Government** has raised concerns that the market access principles may make it more difficult for the governments to reach agreement through common frameworks, arguing that 'the default scenario will ensure their businesses are guaranteed access to each other's markets – removing the risk of not reaching agreement'.

## 5. Managing divergence: in practice

The framework sets out how the governments will work together and resolve disputes on where to align and diverge. Like other provisional frameworks, it sets processes for making decisions and resolving disputes. It sets out more detailed governance arrangements than most other provisional frameworks, reflecting the complexities of decision-making in this policy area.

### 5.1. Joint structures

The framework commits the UK and devolved governments to joint approaches for:

- undertaking risk analyses;
- managing pre-market approvals and authorisation processes;
- agreeing common or divergent changes to FFSH law within scope; and
- resolving disputes.

The governments will engage with each other prior to, and share information on, any potential policy changes. The framework states that there should be a commitment to provide 'sufficient resources' for joint working. The governments will also establish a Framework Management Group for oversight of the framework (see section 8 below).

### 5.2. Making decisions and resolving disputes

#### Changes in scope

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The framework sets out principles for making changes to retained EU FFSH law. It states that changes should be in scope of the framework's decision-making processes if:

- a decision in an area of returning powers would have an effect on any of the JMC principles;
- the requirements (both safety and hygiene) are intended to apply to establishments across the UK (or internationally) or products that are marketed across the UK and are currently harmonised at European Union level;
- the policy area is the responsibility of food safety bodies in all four nations; and

- the issue is not explicitly considered outside of scope.

It goes on to say that this would include proposals for changes to retained EU law and for new legislation in currently harmonised policy areas of retained EU law. This would include common authorisations for products for sale across GB.

The governments will 'aim to develop common policy approaches' where this is appropriate (paragraph 5.18). If they consider a harmonised approach is not suitable, the governments agree to 'see if they can agree a common approach that accommodates the desired outcomes of individual nations', even if one or more of the governments wishes to diverge. If any of the governments do not consider divergence acceptable, the dispute resolution process will be initiated.

### Analysing risk and making decisions

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Part 3 of the framework sets out how joint decisions will be made. Food safety authorities will carry out joint risk analysis for proposed changes in scope of the framework.

The **FSA describes risk analysis** as made up of:

- **Risk assessment:** the scientific assessment of risks associated with food and feed. The framework sets out principles for risk assessment for food and feed (paragraph 5.11). Risk assessment processes will include representation from each part of the UK. Risk assessments will generally be on a UK-wide basis, but there will also be scope for risk assessments for each part of the UK. The FSA commits to consult the relevant government about issues, evidence and analysis for their part of the UK. It also commits to independent challenge in the risk assessment process.
- **Risk management:** the process of weighing policy alternatives, considering risk assessments, and selecting prevention and control options. The framework states that 'the risk analysis process will bring together officials from across the UK to consider risk management proposals on issues in scope of the framework'. The terms of reference for and membership of joint risk management groups are yet to be decided.
- **Risk communication:** the exchange of information, advice and opinions about risk. The framework doesn't set out further information about how food safety authorities will work together to communicate risk (see section 5.4 below).

The food safety authorities will develop recommendations on whether divergence

is appropriate. When they have reached a decision, food safety authorities will then present joint recommendations for risk management to Ministers. These could be for either a common or a divergent approach. If Ministers agree, these approaches will be implemented.

In March 2021, the previous **Welsh Government told the Fifth Senedd's External Affairs Committee:**

... any recommendations for different policy approaches would be supported by evidence having been considered through the FSA's rigorous, independent risk analysis process, which includes consultation with stakeholders. Ministers in all four nations would be made aware of the recommendations in the other nations and would have the ability to raise the issue for discussion with their counterparts under the Framework's dispute resolution process. For any final decisions, the FSA as the competent authority would need to provide Welsh Ministers with recommendations.

## Resolving disputes

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The framework sets out processes for resolving disputes at official and ministerial level.

Disputes between officials at each food safety authority can be escalated to the relevant Directors for each country (see **diagram 2** of the framework).

The ministerial dispute resolution process is triggered if a dispute arises at official level and cannot be resolved, or if one or more Ministers does not agree with the joint recommendations of the food safety bodies (see **diagrams 3** and **4**).

Ministers must consider advice from officials before deciding whether to raise the issue with their counterparts. If the Ministers cannot reach agreement after meeting, disputes would be escalated to the Joint Ministerial Committee secretariat through the process set out in the **Memorandum of Understanding on Devolution** (which is currently **under review**). The framework states that such escalation 'should only be considered in exceptional circumstances'.

## 5.3. Areas outside scope of the framework

The framework sets out areas of FFSH policy that are outside its scope.

### Subject to notification

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The framework sets out when the governments will need to notify other

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governments about their decisions on law and policy, but will not need to take those decisions jointly. This will be the process when different requirements are proposed for businesses that supply, or products that circulate in, only one part of the UK.

In these cases, governments would be required to engage with the other governments, informing them of prospective changes, but would not need to go through the joint risk assessment process.

The framework states that the purpose of this is to allow Ministers to make recommendations to protect public health following inquests or fatal accident inquiries about incidents in their part of the UK. It gives the example of the Welsh Government tightening rules on food safety in Wales only following the E. coli outbreak in 2005.

### Out of scope

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Areas where retained EU law already allows divergence between different parts of GB will fall outside the scope of the framework.

For these areas, the framework states that existing joint notification procedures and working arrangements should continue. Such areas include:

- domestic enforcement and official controls (such as the more limited scope for use of remedial action notices in England, compared to other parts of the UK);
- changes in areas where national measures are permitted (such as the ban on the sale of raw milk in Scotland); and
- operational handling of incidents.

## 5.4. Key issues

### Capacity of the FSA

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The FSA and FSS have taken on significant new functions as a result of the UK's withdrawal from the EU. As a result, they have had to increase their capacity.

In March 2021, the **Welsh Government said** that it has provided the FSA with £1.5m in extra funding to 'increase staffing capacity to allow FSA staff in Wales to contribute to developing policy recommendations on risk management decisions for Wales'. In 2019/20, the FSA employed **1,115 permanent staff in Westminster**

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and **38 in Wales**.

In their scrutiny of the framework, the House of Lords Common Frameworks Scrutiny Committee asked the Chief Executive of Food Standards Scotland Geoff Ogle about the capacity of the FSA and FSS to carry out their new functions. **He said:**

... both organisations have had increased resource to deal with some of the consequences of leaving the EU. Both organisations have deliberately focused that additional money and resource into developing risk analysis capacity and, indeed, capability. I am quite satisfied that we will undertake risk analysis in a way that is internationally recognised and is to internationally recognised standards and processes.

In evidence to the Scottish Parliament Health and Sport Committee, **Professor Paul Haggarty said:**

It would be reasonable to conclude that the UK has the scientific capability to support the framework and to represent our interests to the WTO Sanitary and Phytosanitary (SPS) committee.

However, some stakeholders have raised concerns about the FSA's role in making decisions and resolving disputes about risk management. Professor Haggarty also said:

The framework places the dispute resolution procedure emphasis on the evidence base and the risk assessment, but it seems more likely that differences between nations will arise primarily in relation to risk management and the interpretation of evidence. **That would make it more difficult to resolve any conflict based on easily identified objective criteria.** [our emphasis]

#### Decision-making role of the FSA

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The FSA is a non-ministerial department of the UK Government and most members of its Board are appointed by the UK Government Secretary of State for Health.

The Health Ministers for Wales and Northern Ireland each have the power to appoint one member to the Board. The Board Member for Wales chairs the **Welsh Food Advisory Committee**. This Committee advises the FSA on food policy in Wales. The FSA also has a Director with responsibility for Wales. The FSA's **annual report** and an **annual report for Wales** are laid before the Senedd as well as the UK Parliament.

The framework provides that the FSA will make risk management



recommendations in relation to Wales. If a dispute arises at official level, it can be escalated to the Director for Wales, to the CEO and Chair of the FSA, and finally to the ministerial dispute resolution process.

The Welsh Government and FSA published a **concordat on joint working** in 2016. This sets out that the Welsh Government will provide funding for the FSA's office in Cardiff. In March 2021, the **Welsh Government confirmed** that the concordat was under review.

In June 2021, the **Welsh Government also announced** a review of the operation of the FSA in Wales, to consider:

... if current structures, governance and stakeholder engagement are effective and fit for purpose to deliver against the FSA in Wales remit.

### Transparency and external engagement

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The framework sets out that risk communication will form part of the joint risk analysis process. It also sets out principles for the resolution of disputes: they should be evidence-based, transparent, and timely.

The framework does not give any details on how the making of decisions and resolution of disputes will be transparent to stakeholders such as food businesses.

In evidence to the House of Commons Environmental Audit Committee, the **Food and Drink Federation (FDF) said:**

Under the EU policy-making framework, stakeholders have defined opportunities to provide input to inform policy development. These range from official requests for data to contribute to risk assessment processes through to formally established consultation processes, which provide stakeholders with the opportunity to provide informed feedback on proposed risk management measures. We would like to see similar procedures for stakeholder input and consultation embedded into the Common Framework for Food and Feed Safety and Hygiene.

The framework does not say how the outcomes of risk analyses will be communicated to stakeholders and the public, including when divergent decisions have been made in different parts of the UK or GB.

In March 2021, the **Welsh Government outlined that** the FSA, Welsh Food Advisory Committee and Safe Sustainable Authentic Food Wales (SSAFW) partnership would all contribute to stakeholder engagement and communication. The most significant risk assessments would be considered at open FSA Board meetings and any amendments to legislation would be subject to consultation.

## Impact on the exercise of devolved competence

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Although the framework itself is non-legislative, in practice it may constrain the exercise of both legislative and executive competence, in that it subjects proposed future changes to the processes that it establishes. For example, if the Welsh Government or a Member of the Senedd were to propose legislation within the scope of the framework, the Welsh Government would need to follow the processes set out in the framework to take it forward.

Correcting regulations in this policy area provide regulation-making powers to the Welsh Ministers. The framework requires Welsh Ministers to make joint decisions with the other governments before using these powers.

If disputes cannot be resolved through the framework, they can be referred to the dispute resolution process in the **Memorandum of Understanding on Devolution**. This requires dispute resolution meetings to be chaired by a senior UK Minister.

The governments are currently reviewing the Memorandum of Understanding and published an **update on progress** in March 2021. The update proposes a new process for dispute resolution. This would require dispute resolution meetings to be chaired by a person endorsed by all parties and for the governments to seek non-binding third party advice. It would also require governments to report on the outcome of disputes escalated to interministerial bodies to their legislatures. The **previous Welsh Government welcomed this** as progress. The review is ongoing.

## 6. International obligations

Part of the purpose of the framework is to ensure the UK can negotiate, enter into new trade agreements and international treaties, and comply with international obligations. It shares this feature with other published common frameworks.

The Welsh Government and Senedd are **responsible for observing and implementing the UK's international obligations** in devolved areas of competence. Wales' devolution settlement requires adherence to international obligations in several ways. For example, actions taken by the Welsh Ministers and legislation passed by the Senedd must be compatible with the UK's international obligations.

FFSH is not regulated by a single international organisation or agreement. International obligations relating to food are incorporated into multiple areas and types of international obligations, from international food trade to international public health and human rights legislation. For example, the right to an adequate standard of living, including adequate food, is enshrined in a number of international conventions, including the UN's **International Covenant on Economic, Social and Cultural Rights** (ICESR).

This section discusses the UK's non-EU international obligations and obligations arising from the UK-EU relationship.

### 6.1. UK international obligations

The framework makes references to non-EU international obligations across six areas:

#### 1. International trade

The framework acknowledges that one of the main objectives of food and feed law is to:

... facilitate global trade of safe feed and safe, wholesome food by taking into account international standards and agreements when developing the European Union legislation, except where this might undermine the high level of consumer protection pursued by the European Union. (Paragraph 3.13)

It is also acknowledged that the harmonisation of FFSH legislation, in substance and approach, is beneficial to international trading partners (paragraph 5.1).

Paragraph 3.4 of the framework outlines that, while FFSH policy areas are devolved matters, they can overlap in the UK's devolution settlement with international trade, a reserved matter. It is also recognised that the implementation of international trade agreements 'may intersect with aspects of devolved policy areas'. Furthermore, it remains the overall responsibility of the UK Government to ensure the UK complies with its international trading obligations.

The framework also recognises that it will be necessary to consider future cross-cutting areas, such as international trade obligations, with regard to its dispute resolution procedure (paragraph 12.6).

## 2. Codex Alimentarius

Paragraphs 3.14 describes obligations arising from the Codex Alimentarius, defined in Annex 3 as follows:

Codex Alimentarius is a collection of internationally recognised standards, codes of practice, guidelines, and other recommendations relating to foods, food production, and food safety. Its texts are developed and maintained by the Codex Alimentarius Commission, whose main goals are to protect the health of consumers and ensure fair practices in the international food trade. The Codex Alimentarius is recognized by the World Trade Organisation as an international reference point for the resolution of disputes concerning food safety and consumer protection.

The Codex Alimentarius Commission (CAC) was founded jointly in 1961 by the United Nations' Food and Agriculture Organisation (FAO) and World Health Organisation (WHO) as part of their Food Standards Programme.

According to [the WTO's website](#):

The Codex has developed over 200 standards covering processed, semi-processed or unprocessed foods intended for sale for the consumer or for intermediate processing; over 40 hygienic and technological codes of practice; evaluated over 1000 food additives and 54 veterinary drugs; set more than 3000 maximum levels for pesticide residues; and specified over 30 guidelines for contaminants.

The framework explains the activities carried out by Defra and the FSA at the CAC and that plans are 'in train to increase this activity'.

## 3. World Trade Organisation

Paragraph 3.15 of the framework describes obligations arising from the UK's

membership of the World Trade Organisation (WTO). It specifically states that the UK has taken up new obligations at the WTO's Sanitary and Phytosanitary (SPS) Committee, although it is not clear what these are. At time of publication the [WTO webpage for the UK](#) did not include this information.

The framework describes the WTO's SPS Agreement, stating that it 'sets out the basic rules for food safety and animal and plant health standards'. However, the [Agreement does not itself set standards](#). Rather, it encourages states to establish SPS measures consistent with international standards and concerns the application of regulations. The [WTO has explained](#) how it 'does not and will not develop such standards,' as these are developed in other international bodies. For many states, including the UK, SPS obligations are contained in domestic regimes and international agreements (usually trade agreements) with others. They may meet, or go further than, international standards.

#### 4. Belfast (Good Friday) Agreement (GFA)

Paragraphs 3.21-3.25 of the framework set out 'Northern Ireland considerations'. Paragraph 3.23 states that the provisions of [the GFA](#), including Strand Two of the Agreement, are to be respected.

Strand Two establishes the North-South Ministerial Council, to bring together those with executive responsibilities in Northern Ireland and the Irish Government to:

... develop consultation, co-operation and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the Administrations, North and South.

The Council's purposes, aims and practical arrangements are covered in Strand Two. This includes a duty to consider the EU dimension of relevant matters and to represent the views of the Council at the EU (paragraph 17). Specific areas of cooperation are also listed as an Annex, including agriculture, environment and health.

#### 5. Foreign policy

The framework's four-government [provisional Concordat](#) reaffirms the fact that foreign policy is a reserved matter and that overall policy responsibility for its formulation will be retained by the UK Government. However, the framework commits the UK Government to involving:

the devolved administrations fully in discussions about the formulation of UK policy in this area as outlined in the current Devolution: Memorandum of Understanding (currently under review). (Paragraph 2.4)

Furthermore, a footnote to this paragraph adds that:

The text in 2.4 recognises that discussions are ongoing on the operation of Common Frameworks in areas where they intersect with the reserved matter of international trade negotiations. The outcome of these discussions will inform the content of all framework concordats, including FFSH. The text at 2.4 should therefore be considered only a 'placeholder' while those discussions continue and will be formally agreed later in the process when more time is available to complete discussions.

It may therefore be necessary to update this section of the framework.

## 6. 'International principles'

The framework requires FFSH risk assessments to be carried out according to 'recognised international principles' (paragraph 5.11). However, it is not clear what type of, or to which, principles this refers.

### 6.2. Obligations arising from the UK-EU relationship

The UK's former role in, and previous engagement with, EU decision-making in the FFSH area is set out in detail in paragraphs 3.8-3.11 of the framework.

Now that the UK has withdrawn from the EU, there are two main sources of UK obligations arising from the UK-EU relationship – the Trade and Cooperation Agreement (TCA) and the Northern Ireland Protocol, which is part of the Withdrawal Agreement.

#### Obligations arising from the UK-EU Trade and Cooperation Agreement (TCA)

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The **UK-EU Trade and Cooperation Agreement** covers areas relating to the framework, including SPS provisions and level playing field provisions. These include a duty not to reduce or weaken standards. For example:

- One of the SPS objectives is to 'enhance cooperation' and for the UK and EU to cooperate in relevant international organisations to develop international standards, guidelines and recommendations on animal health, food safety and plant health (Articles 69 and 82).
- The UK and EU have a duty to ensure that any required SPS procedures and approvals concerning import conditions on food safety, animal health or plant health are not more burdensome or trade restrictive than necessary (Article 73).

- The UK and EU are duty-bound to notify each other of a ‘significant food safety issue’ identified by either party and may request technical consultations with one another, to which they must respond ‘without undue delay’. An explicit duty is placed on each party to endeavour to provide information necessary to avoid disruptions to trade and to reach a ‘mutually acceptable solution’ (Article 80). This duty was referred to in a [letter from the FSA to the House of Lords](#) Common Frameworks Scrutiny Committee, dated 8 January 2021.
- There are duties to abide by the requirements of several other international agreements and decisions of international institutions throughout the TCA, including the UN’s Food & Agricultural Organisation (FAO) and the WTO’s SPS Committee.

Other elements of the TCA will also be relevant to the development of common frameworks. For example, the TCA’s governance structure establishes multiple committees and working groups, including a UK-EU Trade Specialised Committee on SPS Measures. However, the TCA does not explicitly provide for the input of the devolved or local authorities that are responsible for its implementation.

### Obligations arising from the UK-EU Withdrawal Agreement (including the Protocol on Ireland-Northern Ireland)

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The Northern Ireland Protocol contains further EU and international obligations relating to the framework. For example:

- For goods moving from GB-NI, EU food law listed in Annex 2 (and future changes to it) continues to apply to Northern Ireland. This legislation also applies to the rest of the UK to the extent that it was transposed into retained EU law.
- For goods moving from NI-GB, the UK Government’s commitment to ensuring [unfettered access](#) between Northern Ireland and Great Britain means that qualifying goods can mostly move freely, with a few exceptions. EU food law listed in Annex 2 which prohibits or restricts the exportation of goods shall only be applied to trade from NI to GB to the extent required by the EU’s international obligations (Article 6(1), Northern Ireland Protocol).
- The UK must also ensure it affords full protection to the prohibitions and restrictions on the exportation of goods from the EU to third countries, as set out in EU law (Article 6(1), Northern Ireland Protocol).
- Article 11 of the Protocol places duties on the UK, the EU, the Joint Committee and the Specialised Committee on the implementation of the Protocol to ‘maintain the necessary conditions for continued North-South cooperation’. The

areas listed include the environment, health and agriculture. While no specific reference is made to it, Article 11 reflects the requirements of the **Belfast (Good Friday) Agreement**.

Since its entry into force, the Protocol has been the subject of **multiple UK-EU disputes**, leading the UK Government to propose changes to its operation in a **command paper**, published in July 2021.

The EU has **rejected a renegotiation of the Protocol**, but stated that it would continue to seek creative solutions to overcome the difficulties experienced by citizens in Northern Ireland in the course of its implementation. In September, the **EU stated** that it hopes to resolve 'all outstanding issues' by the end of 2021.

### **Four-government approach**

The framework states that:

While the circumstances in Northern Ireland will be different as a result of the Northern Ireland Protocol, officials and Ministers will continue to be involved in the framework's processes and governance structures.

The four governments commit to engage with each other at the earliest opportunity when considering new policy changes. The framework states that 'where possible' this should include discussion of changes proposed at the Joint Consultative Working Group and other committees established under the Protocol (5.7). However, it does not set out a mechanism for engagement between the governance structures of the Protocol and the framework.

In evidence to the House of Commons Environmental Audit Committee, the **Food and Drink Federation (FDF) said**:

[I]t remains unclear how the Common Framework will operate practically if Northern Ireland's agri-food regulatory system starts to diverge with the GB regulatory system over time as a result of the Northern Ireland Protocol.

The FDF said it supported the single application process for businesses applying for pre-market approvals and re-authorisations for the GB market, but noted that businesses applying for the same authorisation for the Northern Ireland market must also submit separate applications to the relevant body set out in EU legislation. This duplication could present a barrier for food businesses that wish to place certain products on the UK market, but that do not export to the EU.



## **GB policy changes and Northern Ireland**

The framework states that Northern Ireland officials and Ministers will be able to participate in discussions on how potential divergence will be managed across the UK, even when those issues fall within scope of the Northern Ireland Protocol.

In a letter to the House of Lords Common Frameworks Scrutiny Committee, the **Chief Executive of the FSA said:**

Changes to food and feed safety and hygiene legislation that are being considered for Great Britain will be considered through the risk analysis process as set out in the Framework. The process will always take account of data from all four nations of the UK and consider the impact on consumers across all four UK nations. Officials in Northern Ireland will be able to provide input at all stages of the process. Where the outputs of the risk analysis process demonstrate that it is appropriate, the same risk management approach as that applied in Northern Ireland will be recommended to Ministers in Great Britain. There will also be instances where different risk management approaches are appropriate.

When there is divergence between Northern Ireland and Great Britain in any policy area in scope of food and feed safety and hygiene law, Northern Ireland businesses will continue to have unfettered market access to Great Britain, as provided for in the UK Internal Market Act.

She also noted that Ministers in Northern Ireland would be made aware of changes to GB policy and could raise a dispute through the framework if they object.

## **EU policy changes applying in Northern Ireland only**

The framework notes that EU regulations will apply to goods approved in Northern Ireland, which could then enter the GB market. It states that:

... full risk analysis may not be undertaken for some European Union regulations assessed as routine at triage. Those European Union regulations assessed as non-routine at triage would be prioritised for risk analysis as appropriate to the issue.

The **House of Lords Common Frameworks Scrutiny Committee wrote** to the Chief Executive of the Food Standards Agency in December with questions about the interaction between the framework and the Protocol. In her reply, the **Chief Executive said** that

The Framework does not [...] enable continued alignment with the EU law in the rest of Great Britain.

However, non-routine proposals (for example, where there is significant consumer or political interest or the potential for existing regulations to be undermined) that are under consideration through the EU's risk

analysis process (which would ultimately apply in Northern Ireland), may also be subjected to UK risk analysis. If a food safety concern is identified regarding a change coming into effect in Northern Ireland, Ministers will be advised and there will be opportunity to raise the issue through the committees established under the Protocol.

She went on to say that routine changes to EU food safety law applying in Northern Ireland would be monitored but not routinely considered through UK risk analysis, because ‘the UK does not have the resources to do this and may not have access to the necessary data.’

In evidence to the Scottish Parliament Health and Sport Committee, **Professor Paul Haggarty raised concerns** about the consequences of not tracking changes in EU law and policy for businesses in GB:

If the UK, and Scotland in particular, wish to maintain exports to the EU, and continue to import from the EU, then it will have to react on the same timescale by constantly tracking these changes and either implementing the same procedures or choosing not to on specific products or food categories. Either way, it is important for Scotland and the UK to constantly monitor the regulatory environment in the EU and notify food exporters and importers of the implications of changes for their sector. Detailed mechanisms for this should be included in the framework.

The Lords **Committee recommended** that policy changes introduced in Northern Ireland through the Protocol ‘are considered by ministers in the same manner as divergent policy changes suggested by other administrations of the UK are considered through Common Frameworks’. The UK Government said it agreed, ‘insofar as these decisions concern matters within a Common Framework policy area with a devolved interest, they should be routinely considered through that Common Framework.’

The **Committee also recommended** that:

... frameworks that include a major intersection with the Protocol should include processes for reporting on the divergence that occurs and its effects, and that the results of these should be forwarded to the EU for information.

The **UK Government said** that it:

... agrees in principle with the Committee’s recommendation and considers that there is likely to be value in reporting on divergence, but details of how to approach this are a matter for individual departments.

### 6.3. Key issues

#### The UK's role in international bodies

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The framework makes reference to the UK's activities in multiple international fora; however, limited detail has been provided.

It is not clear whether a role is being considered for the devolved governments in this field at the CAC (as set out in **other common frameworks**).

This also applies to the nature and scope of the UK's new obligations at the WTO's Sanitary and Phytosanitary (SPS) Committee.

#### International law

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The framework makes reference to a number of international agreements and principles it will interact with. However, its description of the WTO's SPS Agreement suggests that it performs a role which it does not. The agreement plays an important role in providing a framework to encourage states to establish basic rules for food safety and animal and plant health in line with international standards. It does not itself set standards.

The framework will also need to be understood in the context of the UK's new obligations under the UK-EU Trade and Cooperation Agreement. At the time of writing, the devolved governments have attended inaugural meetings of committees established by the TCA's governance structure in framework areas.

The framework will operate alongside a number of other international and domestic legislative instruments, such as the Good Friday (Belfast) Agreement, the Northern Ireland Protocol, the UK Internal Market Act 2020 and the UK-EU Trade and Cooperation Agreement. An updated assessment of the combined effect of these on the framework could provide greater clarity.

Furthermore, the framework requires FFSH risk assessments to be carried out according to 'recognised international principles'. However, it is not clear to which principles this refers, nor to the type of principles (for example, international political or legal principles). International principles can be interpreted differently by different states, and therefore produce different effects. For example, the **application of the precautionary principle**, which is a key tenet of international environmental law, could affect the UK's relations with trading partners that adopt a different interpretation of the principle.

## Foreign policy

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The framework explains that four-government discussions are ongoing in regard of the operation of common frameworks in areas where they intersect with the reserved matter of international trade negotiations.

As such, it explains that its section on the development of future UK foreign policy should be considered as a placeholder until an update can be inserted.

The UK and devolved governments are currently considering how they should work together on international matters through the Intergovernmental Relations Review. An **update on progress** with the review was published in March 2021. In September, the **Welsh Government Counsel General said** that there was 'a degree of optimism at the moment that a form of wording is likely to be achieved'.

While the current text advises that the UK Government will involve the devolved administrations fully in discussions about the formulation of UK policy in this area, the framework will need to be revisited in light of any future approach agreed between the four governments.

## International trade and the UK Internal Market Act 2020

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The **UK Internal Market Act 2020** creates a presumption that goods imported into one part of the UK can be sold in another part of the UK. If the UK Government decided to change its FFSH policy for England so as to allow, for example, US agricultural products to be imported, the products could be sold across England, Wales and Scotland. This would be regardless of any policy of the Welsh or Scottish governments to limit or ban them.

The UK Government can create exemptions from the Act to give effect to an agreement that forms part of a common framework. However, the current version of the framework does not set out when such exemptions would be made (see section 4.2 above).

## 7. Stakeholder consultation and engagement

In March 2021, the **Fifth Senedd's External Affairs Committee asked** the Welsh Government how it had engaged with stakeholders in preparing the outline framework.

The then **Welsh Government said:**

An online engagement event was held with representation from the food industry, including representation from Wales. Attendees were provided with a copy of the draft framework outline and were invited to comment.

[...]

Stakeholders were supportive of the purpose and principles of the framework. Stakeholders advised that they also felt reassured by the proposals for joint decision making and dispute resolution mechanisms.

In evidence to the House of Commons Environmental Audit Committee, the **FDF said** they had been invited to give feedback on a summary of the proposed framework and to a 'well-organised' stakeholder event. However, they said:

... the feedback process was time-constrained and was undertaken on the basis of a summary of the provisional Common Framework, as the latter has only recently been published. These factors did limit our opportunity to seek detailed feedback from members of the FDF.

The FDF said that they noted that the issues of interaction with the UK Internal Market Act 2020 and the future relationship with the EU were still outstanding and that they 'would appreciate confirmation that further stakeholder input would be sought should these result in significant changes to the provisional Common Framework'.

However, some stakeholders have indicated that they did not feel consultation had been sufficient. In evidence to the House of Lords Common Frameworks Scrutiny Committee, **NFU Cymru representative Huw Thomas said** that they had 'not been especially involved' and 'perhaps feel a little bit in the dark' about the common frameworks process.

**Northern Ireland Retail Consortium Director, Aodhán Connolly**, said:

As for consultation on the frameworks, we have had some from the FSA in Northern Ireland, but that is about it. Given the importance of this to NI to GB and GB to NI, and the fact that we are the people at the coalface, I would have assumed that we would have had a lot more consultation on this.

The FDF and NFU Cymru support the use of a common framework based on a consensual approach between the four UK governments in this policy area. NFU Cymru and Food Standards Scotland **have said** there is little desire for different parts of the UK to be different 'for the sake of it'.

## 8. Review and revision

The framework sets out how it will be reviewed and revised in the future and how the governments will report on its operation. It does this in a broadly similar way to most other **published frameworks**.

### 8.1. Review process

Paragraph 9.3 of the framework sets out that an FFSH Frameworks Management Group will be established. This will be made up of senior officials ‘from food safety bodies in all four nations’. The terms of reference for the group are set out in Annex IV.

This group will be responsible for reviewing the framework and considering amendments put forward by officials from any nation. Any disputes will be escalated through the officials’ dispute resolution process.

The Frameworks Management Group will review the framework for the first time one year after it is implemented (paragraph 11.1). A report will be submitted to the FSA/FSS Boards, portfolio Ministers and the JMC(EN). The Frameworks Management Group will then propose timescales for future review. Paragraphs 9.6 and 12.9 refer to ongoing annual reviews of the framework.

The FSA and FSS will also review their **Memorandum of Understanding** on an annual basis. The **annual reports on the framework are expected to reflect** the outcomes of these reviews.

The four-government Concordat will be formally reviewed at one and three years from the date of its implementation and thereafter at five-year intervals. Changes to the Concordat must be agreed by Ministers in all governments.

### 8.2. Key issues

#### Role of parliaments and stakeholders

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The framework does not give the Senedd or stakeholders any role in future review and revision of the framework and does not suggest reviews of the framework will be published. However, the **FSA has confirmed** that the annual reports will be published and the previous **Welsh Government said** they would be laid before the Senedd.

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