



HOUSE OF LORDS

Liaison Committee

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4th Report of Session 2019–21

# **A Common Frameworks Scrutiny Committee**

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### *Committee staff*

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# A Common Frameworks Scrutiny Committee

## THE NEED FOR A NEW COMMITTEE

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1. The importance of scrutiny of devolution-related issues has been magnified by the impact of Brexit on the devolution settlements. As a consequence of the UK leaving the EU, powers previously exercised at an EU level that intersect with devolved competence flow back directly to Edinburgh, Cardiff and Belfast. In a number of areas, the UK Government and the Scottish and Welsh Governments agree it is necessary to maintain UK-wide approaches, or common frameworks. Officials from the Northern Ireland Civil Service have engaged in the common frameworks process where the policy area intersects with the devolved competence of the Northern Ireland Assembly. A detailed programme of collaboration has been undertaken to agree where common frameworks are needed and how they will be implemented.
2. This report recommends the appointment of a new Common Frameworks Scrutiny Committee.
3. In considering the scrutiny of common frameworks we benefited greatly from the advice of the Chair of the Constitution Committee, Baroness Taylor of Bolton, and of the Chair of the European Union Select Committee, the Earl of Kinnoull. Both Chairs attended the Liaison Committee meeting on 23 July, having previously given us their views in writing.
4. The Interparliamentary Forum on Brexit was established in 2017 on the initiative of the House of Lords. The Forum brings together the Chairs and Conveners of committees scrutinising Brexit-related issues in Westminster and the devolved legislatures.<sup>1</sup> It has been a significant step forward in intensifying dialogue between the House of Lords and the devolved legislatures, both at member and official level. We consider this dialogue to be of great importance in supporting our response to common frameworks, and expect it to continue.

### Scrutiny of common frameworks

5. There is an immediate need for a committee with sufficient resource to begin scrutinising common frameworks as soon as possible. The Government has confirmed it will support a mechanism for parliamentary scrutiny of common frameworks, and the preliminary documentation for the first such framework has already been brought forward for scrutiny, with more expected to arrive shortly.
6. Scrutiny of common frameworks does not fall within the remit of any existing House of Lords committee, however, and in this circumstance the Liaison Committee itself commented on the first document. This was on nutrition labelling, composition and standards, on which we commented in a letter from the Liaison Committee Chair, Lord McFall of Alcluith, to the

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1 Liaison Committee, *Review of House of Lords Investigative and Scrutiny Committees: towards a new thematic committee structure* (6th Report, Session 2017–19, HL Paper 398) Chapter 7, para 161

Minister of State for Health, Edward Argar MP.<sup>2</sup> Whilst we hope that this was a helpful and pragmatic way of filling an immediate scrutiny gap, we recognised that it would not be an acceptable approach on a continuing basis.

7. Furthermore, existing sessional committees do not have sufficient resources to undertake this additional scrutiny work for an extended period of time. The schedule for consideration of common frameworks was disrupted by the COVID-19 emergency, which has created further pressure on timescales for scrutiny. This fact, combined with the scale and breadth of issues of relevance that require scrutiny, has led us to conclude that the early appointment of a committee with the necessary resources is needed.
8. The work on common frameworks, which is expected to persist for at least the next 12 months, is likely to be particularly resource-intensive: around 40 detailed and technically complex framework documents are expected to be submitted for parliamentary scrutiny, and Parliament is likely to be asked to scrutinise a large number of these documents concurrently, as they are expected to be brought forward in a series of cohorts.
9. In order to keep the burden on existing committees to a minimum at a time when they are already exceptionally busy, additional and focused resource is urgently required to undertake such a significant additional task, which has great importance to the future governance of the United Kingdom.
10. In coming to this conclusion we bore in mind the excellent and often fast-paced scrutiny work undertaken by the Delegated Powers and Regulatory Reform Committee, whose reports are highly regarded and widely influential.

#### **Relationship to existing committees and wider scrutiny of devolution**

11. Discussions in the Interparliamentary Forum and beyond have demonstrated the growing need for scrutiny of devolution-related issues, and concomitant dialogue between Westminster and the devolved legislatures, across a range of policy fields. In addition to common frameworks, these include: the UK internal market; the Protocol on Ireland/Northern Ireland; the interest of the devolved institutions in the negotiations on the UK's future relationship with the EU and in international agreements between the UK and third countries; scrutiny of inter-governmental relations (IGR), including the Joint Ministerial Committee (JMC) structure; and the evolution of inter-parliamentary dialogue.
12. The Government's White Paper on the UK Internal Market, published on 16 July, outlines the many interdependencies which will need scrutinising in the months ahead. As well as common frameworks, referred to 23 times in the White Paper, it highlights issues such as the NI Protocol, and refers to the need for parliamentary scrutiny.<sup>3</sup> We understand that the Constitution Committee is planning a wide-ranging inquiry into issues related to devolution and this would be most welcome.
13. The Constitution Committee's Orders of Reference were recently amended to include a commitment to "keep under review the ... constitutional aspects

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2 Correspondence from the Senior Deputy Speaker, Chair of the Liaison Committee to Mr Edward Argar MP, Minister of Health on the Nutrition Labelling, Composition and Standards Common Framework (14 July 2020): <https://committees.parliament.uk/publications/1943/documents/18909/default/>

3 Department for Business, Energy and Industrial Strategy, 'UK Internal Market', CP 278, July 2020: <https://www.gov.uk/government/publications/uk-internal-market/uk-internal-market>

of devolution”.<sup>4</sup> Our expectation is that the new Committee will focus on detailed scrutiny of common frameworks, and on maintaining relations with other legislatures in relation to this scrutiny. The Constitution Committee will retain all its important responsibilities in relation to the constitutional aspects of devolution, including the scrutiny of primary legislation (in which context issues concerning legislative consent, in particular, may arise).

14. We do not intend the new Common Frameworks Scrutiny Committee to impinge on the role of the Constitution Committee in any way. Both Committees will, however, no doubt work together to ensure that their activity is coordinated effectively, and indeed to exploit possible synergies, whilst ensuring the new Committee does not engage in broader constitutional matters. If helpful, the Committees may agree a Memorandum of Understanding setting out their respective responsibilities, and the means for coordinating their work. Such a memorandum has been agreed between the Constitution Committee and the Delegated Powers and Regulatory Reform Committee and has worked well, operating mostly at staff level.
15. The European Union Select Committee has scrutinised the implications of Brexit for devolution. It has been tasked by the House with scrutiny of the UK–EU future relationship negotiations and third country agreements, and can therefore be expected to take the lead in engagement with the devolved legislatures in those specific contexts. The Common Frameworks Scrutiny Committee can, however, be expected to take an interest in such engagement.

#### **The duration of the new Committee**

16. Given the likely timescale for the publication of common frameworks, and the intensity of the Committee’s scrutiny work, we recommend that it should be appointed until the end of the current session of this Parliament.
17. We consider that it will be important that the Liaison Committee should keep the work of the Committee under regular review.
18. **We recommend the establishment of a Common Frameworks Scrutiny Committee for the duration of the present session, to begin work as soon as possible after the House returns from the summer recess.**

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4 HL Deb, 9 January 2020, [col 314](#)