

Julie James MS
Minister for Housing and Local Government

26 October 2020

Dear Julie,

Thank you for your letter, dated 15 October 2020, covering the draft Framework Outline Agreement (FOA) for Hazardous Substances Planning.

The Committee currently has limited capacity to scrutinise the common frameworks, which fall within its remit, that are expected to be published before the end of 2020. While we do not envisage undertaking a substantive piece of work on the provisional FOA for Hazardous Substances Planning, we would welcome a response from you on the following:

Development of the common framework

- 1. Can you explain why you believe a framework is necessary in this policy area?**
- 2. Can you expand on why the UK administrations chose to pursue a non-legislative framework?**
- 3. Can you outline how you have engaged Welsh stakeholders, including industry, Local Planning Authorities and Natural Resources Wales in the development of the framework?**
- 4. Can you outline the key issues raised by Welsh stakeholders and how these been reflected in the framework?**

Interaction with domestic and international law, and international agreements

- 5. Can you clarify whether and how the framework interacts with existing domestic legislation, other than that already listed in Section 1 of the draft FOA?**

6. The UK is signatory to two international agreements relevant to the hazardous substances regime: the Aarhus Convention and the Convention of the Transboundary Effects of Industrial



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Accidents. **Can you expand on how the framework will ensure compliance with these Conventions?**

7. Can you clarify whether and how the outcome of the on-going EU-UK negotiations on the Future Relationship will impact on the framework?

8. Can you clarify whether and how the UK Government's Internal Market Bill will impact on the framework?

Scrutiny process and timelines

9. Can you confirm that the framework will comprise the provisional FOA, the Concordat and the updated MOU referred to in the draft FOA?

10. Can you clarify whether the Concordat and the updated MOU will be available for Senedd scrutiny?

11. Can you clarify the timeline for Senedd scrutiny of the provisional FOA and associated documents?

Monitoring and review arrangements for the framework

According to the draft FOA, there are no formal monitoring measures associated with the framework. Instead, policy leads in each administration will hold six-monthly telephone conferences "to discuss any issues and share learning". In addition, a review meeting between the UK administrations will be held two years after the framework comes into effect.

12. Can you explain why the UK administrations have chosen not to establish a more formal mechanism for monitoring the implementation of the framework?

13. Can you clarify whether a report of the review meeting between the UK administrations will be made publicly available?

The draft FOA states that the involvement of stakeholders in the review and amendment process for the framework "would be considered at the time".

14. Can you explain in what circumstances would it not be appropriate to involve stakeholders in the review process for the framework?

15. Can you confirm whether and how the Senedd will be able to contribute to the review process for the framework?

Background to the common framework

16. Can you outline the 'minimum requirements' of the Seveso III Directive in relation to hazardous substances planning, which are common across the UK?



According to the draft FOA there is already considerable scope for divergence under the current hazardous substances planning regime. However, there are a number of restrictions on what the UK administrations can amend based on what has been set at EU level. The 'key restrictions' include changing the definition of what an establishment is and lowering standards on what constitutes a dangerous substance.

17. Can you provide further details on the scope for divergence under the current hazardous substances planning regime?

The post-EU Exit hazardous substances planning regime

18. Can you clarify whether any of the current 'key restrictions' will be maintained at a UK-wide level post-EU Exit? How will this be reflected in the framework?

Under the current hazardous substances planning regime, minimum requirements are common across the UK. This may not necessarily be the case under the post-EU Exit regime, where the UK administrations will have wider scope to use their powers to make changes. These changes could include relaxing requirements on the level of substances that can be held before triggering the consent process, and potentially (in a scenario in which the non-regression principle did not apply), completely removing controls for certain substances.

19. What consideration has been given to maintaining common minimum requirements, including, for example, minimum standards on what constitutes a hazardous substance?

20. What are the potential risks and opportunities associated with not maintaining common minimum requirements and with widening the scope for divergence?

21. To what extent are you satisfied that the chosen approach in this policy area, i.e. a non-legislative framework, will not result in a lowering of standards and a reduction in the levels of protection for human health and the environment?

22. To what extent does the framework align with the Welsh Government's commitment to non-regression of environmental standards?

Proposals for future changes to the hazardous substances planning regime

In responding to its Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major accident hazards (August 2015), the Welsh Government indicated it would "consider reform of the regime at a later date".

23. Can you clarify whether the Welsh Government has undertaken any work on proposals for the reform of the hazardous substances planning regime since the above consultation?

24. Can you clarify whether the Welsh Government has any immediate or future plans to review the hazardous substances planning regime?



25. In what circumstances would the Welsh Government consider proposals to reduce controls below the current minimum requirements, for example, on the level of substances that can be held, or in relation to the consent process?

26. Can you clarify whether changes to the current minimum requirements would be subject to public consultation and Senedd approval?

27. To what extent are you satisfied that there is sufficient technical expertise at a Wales or UK level to replace that currently available at an EU level in this policy area?

28. In the absence of new or revised EU requirements in relation to hazardous substances planning applying to the UK, what arrangements will be put in place to review domestic requirements, taking account of developments elsewhere?

I should be grateful if you could respond as soon as possible, and by 13 November 2020, at the latest.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee, and the Chair of External Affairs and Additional Legislation Committee.

Regards,



Mike Hedges MS
Chair of Climate Change, Environment and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

