



Paul Davies MS  
Chair  
Economy, Trade and Rural Affairs Committee

[Paul.Davies@senedd.wales](mailto:Paul.Davies@senedd.wales)

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Dear Paul,

Thank you for your letter of 30 March raising a number of queries in regards to the provisional Animal Health and Welfare (AH&W) Common Framework. My responses are set out below.

#### Scope of the Framework

***The framework states that the whole of animal health and welfare law and policy will be in scope. Why is it appropriate for all planned changes to animal health and welfare law and policy to be in scope of this framework, even where the Welsh Government would have had regulatory flexibility in the EU context?***

The majority of domestic regulation in AH&W consists of retained EU law. As all AH&W regulation is interlinked in nature it would not make practical sense to have separate structures under the Framework for discussions and decision-making on both retained EU law and non-retained AH&W law.

The Welsh Government always had regulatory flexibility while we were in the EU and will continue to have so under the Framework arrangements.

***Can you set out what impact this will have on the way that the Senedd and Welsh Government can exercise their competence?***

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto:Correspondence.Lesley.Griffiths@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The Framework does not impinge upon the ability of Welsh Government to make separate policy or legislation for Wales. Divergence in policy or legislation in devolved areas will continue to be possible with the Framework providing a more formal route for early discussion of either joint or separate policy making.

The Senedd will continue to be consulted and notified in the usual way when the Welsh Government is developing policy and making regulatory changes.

***Can you set out how the process for making changes to Welsh law and policy on animal health and welfare is different under the framework compared to during EU membership?***

It is important to emphasise that significant cooperation and collaboration in AH&W between the four governments existed prior to our exit from the EU, given the complexity and interdependencies of the area covered by this Framework. Therefore, the processes for policy and legislative change are not significantly different.

The main difference is that Ministers in all governments acquired new functions previously held by the European Commission so the Framework created the mechanism to govern policy development and decision making in those new areas.

For example, to support those new functions relating to assuring standards of imported goods, the creation of the UK Office for Sanitary and PhytoSanitary Trade Assurance (UKOSPSTA), provides a technical role on behalf of all governments, using common resources and enhancing decision making by making the same technical and scientific data and advice available by default to policy decision makers.

#### Decision-making in the Framework

***To explain how you have been working through the common framework to consider and agree changes to animal health and welfare law, and how this is different from the policy development process when Wales was in the EU?***

It is important to emphasise that significant cooperation and collaboration already existed between the four governments prior to EU Exit. The Framework has strengthened our working relationship with the other governments of the UK.

Specific examples include:

- Over the past year, we have utilised the Framework mechanisms (as set out within the Framework itself) to improve engagement with UK Government and raise awareness of proposed changes to UK border policy.
- There have been a number of changes to the EU's Animal Health Regulations (AHR) with an impact on the UK's ability to export to the EU. The Framework created a cross government programme board to run various successful projects to address those changes in EU law and amended our own regulations and policies in order to preserve trade with the EU.

***The framework requires that the governments notify each other of any matters (including policy formation, proposal for legislation, public announcements and emergency responses) as soon as they are considered, so that joint discussions can take place before final decisions are taken. To explain what impact (if any) you anticipate this will have on the role of the Senedd and stakeholders in developing Welsh law and policy?***

The Framework does not prevent or inhibit the Welsh Ministers' executive competence to implement new policies or the Senedd's competence to pass legislation. There are times, given the nature of animal disease and other emergencies, that the Welsh Government needs to act very quickly, and there is provision for this in our legislation.

The Framework does not impinge upon the role of the Senedd and stakeholders as we will consult and notify them in the usual manner.

### Managing divergence

***The framework requires that if a government is proposing to diverge, there should be an assessment of the implications for the UK internal market, the negotiation and implementation of international agreements, and biosecurity. How will this work in practice?***

Parties must first see if they can agree a common approach that accommodates the desired outcomes of individual Parties in order to minimise divergence.

The Parties have agreed not to diverge from baseline standards in a manner harmful to biosecurity, welfare or the UK Internal Market across relevant policy areas. The impact of any change and whether it is harmful will be determined by the CVOs and Senior Policy Officials. Where there is the potential for divergence this will be transparently discussed with all parties included in the Framework, evidence will be shared and if appropriate a consensus may be sought on a policy direction.

***To explain how the Welsh Government will continue to monitor changes to EU law on animal health and welfare and assess the risks and benefits of keeping pace with EU law?***

The Welsh Government continues to keep track of any changes to EU law through our own investigations and via collaborative work with the other Parties. Mechanisms were created to serve all governments (and share common resources) and keep track of changes at EU level. The changes to the EU Animal Health Regulations (AHR) mentioned above are an example of this.

***To explain how the impact of the UK Internal Market Act will be managed in the framework?***

The implications of the UK Internal Market Act (UKIMA) will be considered when developing legislation in many areas and Welsh Government officials continue to monitor its effect in Wales and across the UK. Welsh Government policy teams are continuing to develop Welsh legislation in line with our devolved competence, following our normal procedures.

***The framework requires that the governments notify each other of any matters (including policy formation, proposal for legislation, public announcements and emergency responses) as soon as they are considered, so that joint discussions can take place before final decisions are taken. What impact will this have on the role of stakeholders in developing Welsh law and policy?***

We will continue to engage with stakeholders in the usual way in the development of Welsh law and Welsh policy.

***The framework provides for relevant arm's length bodies to participate in decision-making groups. Some of these bodies (such as the APHA and the Fish Health Inspectorate) operate in Wales, but are not formally accountable to the Welsh Government or the Senedd. How will you ensure that the responsibilities and lines of accountability for different bodies are clear?***

Arms' length bodies participate in decision making groups in an advisory capacity, and in the spirit of transparency. For instance, the Animal and Plant health Authority (APHA) has many veterinary, scientific and field experts and units who provide specialist advice to policy makers. While it is true that APHA is an executive agency of Defra, the Welsh Government has a Service Level Agreement (SLA) with APHA for Wales, so APHA in Wales is accountable to the Welsh Government.

The UK Office for SPS Trade Assurance (UKOSPSTA) is a key example of a new Framework governance mechanism to ensure engagement of relevant bodies such as the Food Standards Agency and Centre for Environment Fisheries and Aquaculture Science (Cefas). It provides a technical service to all governments and is hosted by Defra with a joint governance board and various other governance layers. It is playing a key role within the AH&W Framework governance arrangements and is primarily tasked with administering new market access requests to the UK on behalf of the four governments.

Additionally, there is clear separation between the Framework structures that are advisory from those that are decision makers (such as the Animal Disease Policy Group [ADPG] and the Animal Welfare Policy Group [AWPG]).

***The framework requires that if a government is proposing to diverge, there should be an assessment of the implications for the UK internal market, the negotiation and implementation of international agreements, and biosecurity. Why have these criteria been chosen, and what would happen if there was any perceived conflict between them?***

These criteria are not exhaustive; they are the core considerations which drive policy decision making in this area and reflect the Common Framework principles established by the JMC in October 2017 as set out in the text of this Framework.

These matters are designed to be agreed through discussion and appropriate levels of escalation, as set out in the Framework documents. The assessment is made through the governance structures e.g. the Animal Disease Policy Group (ADPG) on a case-by-case basis and any disputes would be taken through the Dispute Resolution mechanisms.

It should also be noted that the Interministerial Standing Committee, established under the Intergovernmental Relations Review, will monitor the Frameworks programme including any obstacles to progress.

***Who would carry out the assessment?***

Any assessments deemed necessary are made or commissioned jointly through the decision-making structures e.g. ADPG.

***Would stakeholders be involved in making the assessment?***

Any relevant stakeholders would be identified and invited to participate in making the assessment.

### ***Would the results of the assessment be made public?***

We would not make assessments public by default (unless required by the legislation).

### **UK Internal Market Act 2020**

### ***What impact could the UK Internal Market Act 2020 have on Welsh law on animal health and welfare?***

Future policy will be considered on a case-by-case basis as to whether there is an intersect with the UK Internal Market Act (UKIMA) and the potential effect.

### ***Do you intend to request any exclusions from the Act on animal health and welfare?***

There are no intentions to request an exclusion.

### **EU and Northern Ireland**

### ***Can you provide an overview of how retained EU law on animal health and welfare in Wales has changed since the end of the transition period?***

Since the end of the transition period, a number of changes have been made to retained EU law. These include:

- An amendment to the method of rabies vaccination testing used. This is specifically to deal with the crisis in Ukraine, and the need to quickly test pets that accompany refugees.
- Amending pieces of legislation to ensure an effective approach to the current and future outbreaks of Avian Influenza (AI), namely:
  - **The Avian Influenza (H5N1 in Wild Birds) (Wales) (Amendment) Order 2021** came into force on 19 November 2022. Principally, this order replaces the duty for Welsh Ministers to declare wild bird disease zones in the event of an outbreak of subtype H5N1 in wild birds, with powers to do so on a risk-basis.
  - **The Avian Influenza (Wales) (Amendment and Revocation) Order 2022** came into force on 10 March 2022. It amends the Avian Influenza and Influenza of Avian Origin in Mammals (Wales) (No 2) Order 2006 which applies to cases of Avian Influenza (AI) in Wales. It covers:
- Amendments strengthening disease control measures provided in domestic legislation since the UK's exit from the EU, clarifying diagnostic and surveillance processes where disease is suspected or confirmed.
- Amendments increasing flexibility in relation to certain types of bird and egg movements within disease control zones in response to industry experience during the previous and ongoing avian influenza outbreaks.
- Revocation of specific legislation regarding AI of the subtype H5N1 in order to streamline AI legislation for poultry to enable a risk-based approach to outbreaks of any strain-type.

Several further amendments are being considered in relation to Imports and Borders policy and legislation in relation to Sanitary and Phytosanitary (SPS) goods.

***Can you provide an overview of the main differences between current EU law on animal health and welfare and the law in Wales?***

Please see the answer to the previous question.

***How will you continue to monitor changes to EU law on animal health and welfare and assess the implications of divergence from the EU and Northern Ireland?***

Horizon-scanning and legislation tracking processes are in place to monitor upcoming EU changes that will need to be implemented in Northern Ireland (NI) and be assessed for its impact on Great Britain. The Framework ensures that any proposals for divergence among the GB nations are subject to four nation consideration and that Ministers in all four nations have the opportunity to raise a dispute with their counterparts.

The Framework has been drafted and agreed on a four-nation basis with sensitivity to the issues affecting NI and the unique situation that arises from the EU Withdrawal Act. GB nations regularly work with NI to implement changes e.g. most recently in relation to licences for animals moving between NI and GB.

***How will you assess the risks and benefits of keeping pace with EU law compared to maintaining the status quo?***

This will be considered on a case-by-case basis, taking into account the ability of Welsh Government to retain regulatory flexibility in Wales, alongside the emphasis in the Framework on promoting consistent policy approaches across the UK through collaborative working.

Outside the EU, we can diverge in either direction; however, this Framework sets out commitments from all governments not to erode standards, which is one of the Welsh Government's most important objectives in relation to AH&W.

***Are you content that the framework will provide for adequate Welsh Government engagement in discussions through the UK-EU institutional framework on animal health and welfare?***

I would expect Frameworks policy teams in the Welsh Government to promote Welsh interests in these areas through the Frameworks groups. The development of this Framework has increased the scope for interaction between the relevant policy teams of the four governments. It has formalised many governance structures, created new information sharing mechanisms and more collaborative policy development, including where they may be relevant to the negotiation or implementation of a trade agreement.

International Obligations

***The framework provides that it will enable the governments to “consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework.” Do you consider that this gives the Welsh Government adequate involvement in UK positions on animal health and welfare during international trade negotiations?***

The Frameworks are not intended as tools to influence international policy. However, I expect Common Framework policy teams will assert Welsh interests in these areas through the Framework groups.

The AH&W Framework creates the mechanisms for engagement in a timely manner so Welsh views can be expressed, and representations made in devolved matters relating to the international trade space, including Sanitary and PhytoSanitary (SPS) standards, antimicrobial resistance and animal health and welfare.

Welsh Government Officials are represented in, and regularly engage with, various trade-focused fora including, but not limited to, Trade Engagement Group (TEG), Trade Measures and WTO Operations Board and Defra's DA Rest of World SPS committee.

***Could disagreements on UK positions in trade negotiations be escalated through this framework?***

The Framework allows the Welsh Government to influence and input to the UK wide position on trade in relation to AH&W. This includes the opportunity to escalate these discussions to the overarching EFRA portfolio governance structures including IMG-EFRA for Ministerial consideration.

Please also refer to the answer provided to the previous question.

#### Governance and dispute resolution

***Do you consider the dispute resolution mechanism robust enough for its intended purpose?***

I believe the mechanisms are robust and proportionate. These have been jointly developed and agreed by the four UK nations.

***The framework provides that actions under disagreement or dispute should normally be paused pending resolution. Is there a risk that this could lead to delays to Welsh legislation?***

The initial pausing of any actions under dispute is an agreed part of the dispute resolution mechanism in frameworks, but it would depend on the case as the nature of diseases might mean pausing action pending a dispute could leave risks unmitigated.

***Why are no time limits for dispute resolution set?***

It is recognised that disputes may vary in nature, complexity and operational context and therefore a set time limit would not be conducive to reaching the best outcomes for all governments.

#### How the Framework was developed

***How did the Welsh Government engage with stakeholders on the development of the framework?***

Stakeholder engagement on the Framework was coordinated between all governments.

Prior to the implementation of the AH&W Framework, stakeholders were provided with a summary of the proposed Framework, accompanied by a letter signed by all four CVOs and given the opportunity to provide any comments or questions for discussion in November 2020.

Technical stakeholder engagement targeted industry bodies and NGOs identified by the four Governments as being those with the greatest interest in/those who would be impacted most by the Frameworks.

Wales specific stakeholders consulted included, but were not limited to:

- Aberystwyth School of Veterinary Science
- Animal Welfare Network Wales
- Future Farmers of Wales
- Farmers' Union of Wales
- Hybu Cig Cymru
- Iechyd da
- NFU Cymru
- Royal Welsh Agricultural Society
- RSPCA Cymru
- Wales Animal Health and Welfare Framework Group (a publicly appointed group which provides support and advice for the Welsh Government's animal health and welfare policy and delivery).
- Welsh Lamb and Beef

### ***How does the framework reflect the responses of stakeholders in Wales?***

It is important to note that the Framework is primarily about ways of working within Government and between the four governments, rather than policy proposals as such. For that reason, perhaps, stakeholder feedback has been very limited. This has also been the case in a number of other Frameworks.

Stakeholders will continue to be consulted on developments in policy and legislation in the usual way.

### **Review and amendment**

### ***This framework does not include standard text found in other frameworks on how the review and amendment process should work. Why has this text been omitted?***

Section 3.4 of the Framework 'review and amendment' sets out the process agreed by the Parties for this specific Framework. As noted in previous answers, this Framework has formalised significant pre-existing collaboration and governance structures in this policy area and the agreed Framework review and amendment processes reflect this. Any changes to align text with other Frameworks could be considered as part of the process of finalising the Framework.

### ***How will the Senedd be able to contribute to the review and amendment process for the framework?***

There is a commitment to consistent reporting on Frameworks post-finalisation. The details are currently being worked through at official level. Review points are scheduled into each Framework. It is expected that these will give the Senedd additional opportunities to engage in the development and evolution of Frameworks. The Interministerial Standing Committee will monitor the progress of the Frameworks programme in order to fulfil the role given to it by the Joint Review of Intergovernmental Relations to 'Provide oversight of the Common Frameworks programme and its governance arrangements'.

The expectation is that reports on Frameworks will be public documents once they are signed off by portfolio Ministers and will be made available to the relevant committees in the four nations as well as relevant stakeholders.



In addition there is a commitment to inform the Senedd:

- of disputes raised through the Frameworks
- when disputes are escalated to Ministers
- and stakeholders of upcoming review points and consider recommendations by the Senedd and stakeholders as part of the same review process
- of any new legislation affecting the Frameworks
- of any applications for an exclusion under UKIMA.

### International Affairs

***To confirm whether discussions on UK Government positions in trade negotiations relating to animal health and welfare will be taken through the framework.***

The Framework formalises a number of new governance mechanisms and forums which enable all four governments to engage and discuss trade as it impacts AH&W.

### Other Questions

***This framework is closely connected to other common frameworks, particularly food and feed safety and hygiene and public health protection and health security. How will the connections between these frameworks be managed?***

Where issues or decisions span across or impact other policy areas, whether or not they have their own Common Frameworks, then officials within the four governments will engage with their counterparts to consider how best to address the wider issues and balance different considerations, or the different decision-making structures within the different policy areas.

Within the Framework the Food Standards Agency and Food Standards Scotland are observing members of ADPG, as is Public Health Wales and its counterparts where necessary.

Additionally, UKOSPSTA meetings and its attendant sub-committees include representatives from FSA, FSA Wales, Cefas and Plant Health who have roles in other Frameworks, reflecting the complex and interconnected nature of the AH&W Framework.

The overarching governance structures established across the wider EFRA portfolio, such as Senior Officials Programme Board (SOPB) and the IMG-EFRA also provide an opportunity for matters which impact across a number of Frameworks to be raised and discussed.

***The House of Lords Common Frameworks Scrutiny Committee has drawn attention to numerous errors and inconsistencies in this framework. Can you explain how you ensure the quality of framework documents before Ministerial sign-off and Senedd scrutiny?***

Time constraints may have been a factor behind textual errors and inconsistencies. Any such errors will be corrected in the final version of the Framework.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

**Lesley Griffiths AS/MS**

**Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd  
Minister for Rural Affairs and North Wales, and Trefnydd**