

**Lynne Neagle AS/MS**  
**Y Dirprwy Weinidog Iechyd Meddwl a Llesiant**  
**Deputy Minister for Mental Health and Wellbeing**



**Llywodraeth Cymru**  
**Welsh Government**

Eich cyf/Your ref  
Ein cyf/Our ref

April 2022

Dear Russell,

Re: Provisional food compositional standards and labelling common framework.

Many thanks for requesting the views of the Welsh Government in relation to the food compositional standards and labelling common framework. The Welsh Government responses to the questions are attached.

During the development of Common Frameworks (across the programme as a whole) a number of cross-cutting issues became apparent which would affect all Common Frameworks.

These included how frameworks would refer to their interaction with:

- o international relations and trade
- o the Northern Ireland Protocol
- o the UK Internal Market Act exclusions process
- o the Intergovernmental Relations Review and
- o the EU-UK Trade and Cooperation Agreement

In order to support with the resolution of these issues, the senior official level UKG-DA Common Frameworks Project Board agreed standardised language on the four cross-cutting issues for inclusion in Common Frameworks.

The agreed approaches were discussed by UKG and DA constitutional ministers at a Quadrilateral meeting in September 2021, and the standard wording was agreed at a ministerial Quadrilateral in November 2021.

Yours sincerely,

**Lynne Neagle AS/MS**  
**Y Dirprwy Weinidog Iechyd Meddwl a Llesiant**  
**Deputy Minister for Mental Health and Wellbeing**

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Lynne.Neagle@llyw.cymru](mailto:Gohebiaeth.Lynne.Neagle@llyw.cymru)  
[Correspondence.Lynne.Neagle@gov.wales](mailto:Correspondence.Lynne.Neagle@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.

## Annex: Common frameworks: request for further information

### 1. Why is a framework needed for this policy area?

Currently, agri-food goods can be marketed and sold throughout the UK so long as they are compliant with relevant legislative requirements, largely contained within retained EU Regulations. Now and going forward, all parties to the framework agree that a level of commonality across food compositional standards and labelling (FCSL) policy is beneficial, particularly for those businesses who operate across UK borders. The agreements as set out within the framework therefore provide for close collaboration with consistency of approach across all four nations always being sought in the first instance, whilst recognising that the opportunity for divergence should remain where it is agreed that it is necessary and appropriate.

### 2. The framework sets out that governments will be able to diverge under this framework “where evidence is clear that divergence is both necessary and proportionate to meet local needs”. How will you determine if divergence is “necessary and proportionate”?

The parties to the framework have the ability to diverge within their territories (having followed the processes set out in this Concordat for managing divergence or dispute resolution) where Ministers have evidence to demonstrate that divergence is both necessary and proportionate for providing consumer protection within the area or territory in question.

What is necessary and/or proportionate will necessarily be determined on a case-by-case basis in the context of the evidence that identifies the potential need for divergence.

### 3. This framework is closely linked to frameworks for food and feed safety and hygiene and nutritional labelling, composition and standards. How will the connections between these common frameworks be managed?

Officials working in these areas will continue to follow existing four-nation processes. The common frameworks are made up of the same organisations that already have established mechanisms in place for close collaborative working.

A good example of work already underway is the four-nation review of the Bread and Flour Regulations 1998. This is being undertaken by officials in the Food Standards Agency, the Welsh Government, Defra, Food Standards Scotland, The Department of Health and Social Care in the UK Government and The Department of Health in Northern Ireland.

The review includes the fortification of folic acid in flour which sits within the remit of the nutritional labelling, composition and standards (NLCS) framework. Using the structures set up within this framework, officials have set up a joint policy working group to review the regulations and proposals for consultation across government. Subject to Ministerial agreement there will be a UK-wide consultation to encompass all the proposed changes to the Bread and Flour regulations including those outside the scope of this framework such as the fortification of folic acid.

## Managing divergence

### 4. The framework requires the Welsh Government not to take forward a policy proposal in scope until it has gone through a joint decision-making process. What impact could this have on the competence of the Senedd and Welsh Government?

Ministers will retain the right to make individual decisions for their governments, such as whether to make legislation. The competence of the Senedd and Welsh Government will therefore remain unchanged.

The framework does not impinge upon the ability of the Welsh Government to make separate policy or legislation for Wales. Divergence in policy or legislation in devolved areas will continue to be possible, and the framework will provide a more formal route for early discussion of either joint or separate policy making. However, the dispute resolution mechanism can be utilised should an administration consider another administration's policy to be damaging, for example being not compliant with international standards or having significant deleterious impacts in other countries.

**5. The framework requires that Welsh Government not launch a public consultation, or progress in any other material way, with a policy proposal in scope, until it has been considered by the FCSL officials' group. How will this affect the role of Welsh stakeholders in developing Welsh law and policy?**

The role of Welsh stakeholders in developing Welsh law and policy will remain unchanged. The process for requiring proposals to be discussed by the FCSL officials group before consultation will be beneficial to Welsh stakeholders as it will ensure there is co-ordinated parliamentary and stakeholder engagement and communication across the UK. It will also provide a co-ordinated UK position on FCSL policy, resulting in clear and consistent messaging for consumers and industry.

**6. Why will changes to the law be in scope of the framework's decision-making processes where EU law allows scope for national measures to achieve common outcomes?**

National measures will be in scope of the framework but not within the scope of dispute resolution processes. This serves to ensure that all parties to the framework are aware of any proposed changes being made across the UK in this policy area and have a chance to engage at the earliest stage. This will not stop Welsh Ministers' ability to make national measures for Wales but will provide an opportunity to have harmonised rules across the UK if that is desirable to Ministers.

**7. Why will changes to the law be in scope of the framework's decision-making processes that would only apply to businesses established or products circulated in Wales?**

The FCSL policy area is covered by a variety of retained EU laws (listed in Appendix C of the Framework Outline Agreement (FOA)) and associated domestic legislation which implements this in the UK. Changes in those areas, including proposals to change retained EU law and proposals to create new legislation in the FCSL policy area are in scope of the framework and its decision-making processes. Welsh Ministers will take decisions on changes to all areas of retained EU FCSL law, following recommendations from officials. The framework means that Ministers will be informed of the approaches recommended in other nations, and that consensus should be sought on the approaches to take, whether consistent across nations or different.

**8. The UK Government intends to bring forward new proposals on food labelling as part of its upcoming National Food Strategy. What consideration have you given to these proposals and whether any changes should apply in Wales?**

Any changes to legislation within scope of the FCSL Framework proposed as a result of the National Food Strategy will be subject to the framework process, including dispute resolution.

**9. Are you content that the list of legislation in scope of the framework in Annex C is complete? For example, why are regulations on spreadable fats listed, but regulations on olive oil absent?**

I am content that legislation within the policy remit of the four parties to the framework are listed in Annex C of the framework. Olive oil falls within the marketing standard policy area, which is a

Welsh Government-led area in Wales. The FSA in Wales has no policy responsibility for marketing standards, and therefore olive oil is outside of the scope of the FCSL Framework.

## **Role of the Food Standards Agency (FSA)**

### **10. How will the Welsh Government ensure that the FSA has the expertise and capacity to make decisions and recommendations on future food labelling and compositional standards for Wales?**

The FSA in Wales is funded directly from the Welsh Government's Health and Social Services budget in accordance with Section 39 of the Food Standards Act 1999 and produces full resource accounts annually, which are audited by the National Audit Office.

Welsh Ministers agreed an uplift in FSA in Wales funding in order to resource some of those functions which were conferred on Welsh Ministers as a result of EU Exit and are delivered by the FSA in Wales.

This increase in staffing capacity allows the FSA in Wales to contribute to developing policy in relation to food labelling and compositional decisions for Wales. This will be kept under review to ensure that the FSA in Wales continues to have the resources, expertise and capacity to make decisions and recommendations on the future of food labelling and compositional standards for Wales.

### **11. Will Welsh Government officials play any role in the work of the FCSL officials' group?**

The FCSL officials group is a forum for all UK nations to examine proposed amendments to, or entirely new legislation in, food compositional standards and food labelling and is made up of representatives from the FSA in Wales and Northern Ireland, Defra and Food Standards Scotland. The role of the FSA in Wales is to represent the interests of the Welsh Ministers. Where appropriate, officials from the Welsh Government, Scottish Government, UK Government Departments and Department of Health in Northern Ireland may be invited to meetings of this group or policy groups set up under the Officials group to discuss specific policy issues. The Welsh Ministers are kept sighted on this work. Officials from the FSA in Wales also seek a steer from the statutory Welsh Food Advisory Committee on key policy issues.

### **12. What progress has been made in the review of FSA Wales announced in June 2021?**

The Welsh Government has twice been out to tender to procure the necessary contractor to undertake the review but has been unsuccessful in appointing anyone. I intend to re-commission for a review to be undertaken later this year.

### **13. When will the Welsh Government and Food Standards Agency publish an updated Concordat?**

Updating the Concordat is reliant on the completion of the proposed review of the FSA in Wales.

## **UK Internal Market Act 2020**

### **14. What impact could the UK Internal Market Act 2020 have on Welsh law on food compositional standards and labelling?**

The FCSL Framework will operate in the context of the UK Internal Market Act 2020 (UKIMA), where the effect will be determined on a case-by-case basis.

**15. Do you intend to request any exclusions from the Act in this common framework area?**

There are no intentions to request an exclusion.

**EU and Northern Ireland**

**16. How will the Welsh Government continue to monitor changes to EU law on food compositional standards and labelling and assess the implications of divergence from the EU and Northern Ireland?**

EU food compositional standards and labelling law continues to be applicable in Northern Ireland. The FCSL Officials group will continue to consider implications of new EU legislation for Northern Ireland.

Horizon-scanning processes are in place to monitor upcoming EU changes that will need to be implemented in Northern Ireland. The FCSL 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.

**17. How will you assess the risks and benefits of keeping pace with changes to EU law on food compositional standards and labelling?**

While the framework will promote the delivery of consistent policy approaches through collaborative working in areas where the UK has the ability to set its own approaches, under the Northern Ireland Protocol EU food law will continue to apply in Northern Ireland, therefore divergence will emerge over time.

The potential EU driven change, especially legislative changes, will be fed into the four-nation FCSL Officials group to consider what it means for the UK as a whole. The FCSL Officials group will consider the risks and benefits. This will be done through a variety of means, i.e. stakeholder engagement, the development of impact assessments, consumer research where appropriate to ensure the interests of consumers, industry and enforcement authorities are considered across the UK.

**International law and international agreements.**

**18. What international obligations are there in this policy area?**

The FCSL Framework will facilitate co-operation across the UK to ensure the UK can negotiate, enter into, and implement trade agreements. The framework is also designed to ensure the UK can continue to fulfil international obligations such as Codex and World Trade Organisation membership.

**19. Will the governments work together to agree positions for international policy on food standards, and (if so) how?**

International policy formulation will be developed in line with the appropriate intergovernmental structures. International obligations will be implemented in line with these agreements. In this respect, the parties will automatically use any updated International Relations Concordat, and the wider outcomes of the Joint Intergovernmental Relations Review, as the basis for such international considerations

**20. Why does the framework make no reference to the UK-EU Trade and Cooperation Agreement?**

The FCSL Framework was not intended to provide enhanced engagement on matters relating to the UK-EU Trade and Co-operation Agreement. The FCSL Framework is a mechanism for UK-wide co-operation in relation to the devolved matters of food compositional standards and labelling policy.

**21. 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 food compositional standards and labelling during international trade negotiations?**

The framework will provide opportunity for discussions of UK positions on FCSL policy issues, including where they may be relevant to the negotiation or implementation of a trade agreement.

**Governance and dispute resolution**

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

Yes, the dispute resolution mechanism includes participants from each government, with attempts being made in the first instance to provide a resolution at the lowest possible level, with escalation to more senior officials if required.

Equally, with the decision-making process and the creation of sub-groups on particular matters, officials from each nation will participate in the process, with a representative from any of the four governments being permitted to establish a sub-group where required.

It will be imperative, however, that consumers, industry bodies and business are consulted in a timely manner to influence decision making on any proposed changes to food compositional standards and labelling policy, due to the significant impact changes could have on business.

**23. If another government objects to a Welsh Government policy proposal through the dispute resolution mechanism, could that cause delays to Welsh legislation?**

The dispute resolution processes exist to manage disputes at an official and Ministerial level. In the event that disputes arise, the FCSL Framework includes dispute avoidance principles and processes. It is expected that only a very small number of cases will need dispute resolution approaches.

Every effort would be made at working level to resolve any disagreements over difference of approach. Official level disputes will first be referred to bodies of senior officials. In the rare event that a dispute cannot be resolved by officials, it may be escalated to be managed by Ministers. If Ministers cannot agree a way forward, the dispute may be referred to the appropriate intergovernmental structures (the Inter-Ministerial Standing Committee - IMSC<sup>1</sup>) for resolution.

**24. 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.

---

<sup>1</sup> The IMSC has been established as a result of the [Inter-governmental Relations Review \(IGRR\)](#). It will meet every other month to consider issues which cannot be agreed at portfolio level or to bring together strategic considerations affecting many different portfolios.

## How the framework was developed

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

Industry stakeholder engagement on the FCSL Framework proposals was undertaken in two parts in October 2020 and June 2021.

In October 2020, engagement involved key food and feed industry stakeholders from across the four countries being approached for initial feedback and questions about the framework proposals. No responses were received in Wales.

An online stakeholder engagement event took place on the revised proposals (including addition of Lot Marking) on 17 June 2021. Alongside FSS and Defra, colleagues in the FSA presented the proposals for the framework to more than 30 stakeholders from across the UK, many of whom represent industry across the four nations. The revisions were minor, clarifying the scope of the framework and adding clarification on items not in scope.

There were three attendees from Wales, the British Veterinary Association, Hybu Cig Cymru and the Farmers Union of Wales

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

While there were no specific responses to the consultation in Wales, the UK stakeholder event was very well attended. No significant concerns regarding the FCSL Framework were raised, but stakeholders did express interest in the scope of the framework, and interactions with other connected frameworks like the NCLS and the Food and Feed Hygiene and Safety Frameworks. There was also an interest in cross-cutting issues such as the UK Internal Market Act and The Northern Ireland Protocol.

Industry were keen for their views and opinions to be included in early policy development of any potential labelling or composition change.

## Review and revision

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

The FCSL Framework will be regularly reviewed and updated to ensure it remains fit for purpose. This will be achieved through following the Review and Amendment process.

The review and amendment process will be led by the FCSL Officials Group, with engagement from Senior Officials and Ministers.

The Senedd will be informed of upcoming review periods in order to feed into the process.

**28. How will stakeholders be able to contribute to the review and amendment process for the framework?**

If changes are proposed to the scope or functioning of the FCSL Framework, stakeholders will be consulted in advance of Ministerial agreement.