Northern Ireland Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

UK Common Framework: Food Standards Agency

5 November 2020

NORTHERN IRELAND ASSEMBLY

Committee for Health

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Members present for all or part of the proceedings:
Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Ms Paula Bradshaw
Mr Jonathan Buckley
Mr Gerry Carroll
Mr Alan Chambers
Ms Órlaithí Flynn
Mr Colin McGrath
Mr Pat Sheehan

Witnesses:

Mrs Sharon Gilmore	Food Standards Agency
Ms Emily Miles	Food Standards Agency

The Chairperson (Mr Gildernew): I welcome, by video link, Ms Emily Miles, chief executive of the FSA; and Mrs Sharon Gilmore, head of standards and dietary health. I invite you to brief the Committee.

Ms Emily Miles (Food Standards Agency): Thank you very much, Chair. I hope that you can hear me. I am the chief executive of the Food Standards Agency. I would like Sharon to introduce herself as well.

Mrs Sharon Gilmore (Food Standards Agency): Good morning. I head the standards and dietary health team in Northern Ireland.

The Chairperson (Mr Gildernew): Thank you. I remind you both to put your phones on mute when you are not speaking; otherwise it creates problems.

Ms Miles: I will start by making some initial remarks. We are very grateful to have this opportunity to brief the Committee today. I know that you have a full agenda. Just to remind you, the Food Standards Agency is a non-ministerial Department, which was set up in 2000 in response to the BSE crisis. We work in Northern Ireland, Wales and England, and we work closely with our colleagues in Food Standards Scotland.

I will start by briefing you on the common frameworks in principle and then give a little bit more detail about *[Inaudible]* nutrition, which you described.

As members may already know, the four UK Administrations have agreed to work together to establish common approaches and oversees common frameworks in some areas currently governed by EU law but which are otherwise within the competence of devolved Administrations. That demonstrates the commitment that the UK Government, the Scottish Government, the Welsh Government and the Northern Ireland Executive will work together to ensure that our policy-making is coherent and that high regulatory standards are maintained across the UK. The frameworks are co-drafted by policy experts from each of the four Governments and then signed off by the relevant Minister after a process of consultation. Sharon is one of our key drafters in that process.

The common frameworks are governance frameworks. We discuss UK-wide approaches rather than a policy position on those approaches in their own right; they are a mechanism for consultation between the four Governments. The intention is that, at the end of the transition period, appropriate mechanisms are in place to ensure good governance across that four-country working. That will enable us to maintain high levels of food safety and standards and to ensure that consumer interest is protected. For the Food Standards Agency, which was set up out of consumer interest, that is particularly important to us.

They were developed under a set of principles that were agreed by the UK Government and the Scottish and Welsh Governments at the Joint Ministerial Committee (European negotiations) (JMC) in October 2017. Following their re-establishment earlier this year, the Executive agreed to those principles in July 2020.

The principles aim to enable the functioning of the UK internal market, so they acknowledge policy divergence. They intend that we ensure compliance with international obligations; they also ensure that the UK can negotiate, and enter into, new trade agreements and international treaties. They also enable the management of common resources across the four nations.

Whilst Northern Ireland will be subject to EU law, it will remain a full participant in the common frameworks programme, and the frameworks will respect the devolution settlements and democratic accountability of the devolved Administrations. They protect Northern Ireland's place in the United Kingdom and respect the Good Friday Agreement.

In Northern Ireland, the FSA is involved in developing three of the common frameworks. It inputs to the nutrition, labelling and composition standards framework, which is led by the Department of Health and Social Care (DHSC), it leads on the food and food safety and hygiene framework, and it supports DEFRA on the food compositional standards and labelling framework. Each of the three frameworks has a different UK Government lead Department, but they all have interdependencies. As the FSA has retained a full remit on food safety and standards in Northern Ireland, it is the lead body to provide input to those frameworks.

I am accountable to the FSA board, and it set out a number of principles for EU exit and transition in 2017.

The Chairperson (Mr Gildernew): Your feed has frozen, Emily. You finished at "2017".

We are not hearing from you. I will suspend briefly to see if we can get Emily back on the line.

The Committee suspended at 10.36 am and resumed at 10.37 am.

The Chairperson (Mr Gildernew): Our meeting is resumed. Go ahead, Emily.

Ms Miles: Thank you. My sincere apologies.

In 2017, the FSA board set out principles for EU exit and transition. We want post-EU arrangements to be at least as, or more, effective in protecting public health, maintaining confidence in food safety and the regulatory regime, minimising disruption for consumers and industry and seeking to achieve as unified a system as possible in the consumer interest, while respecting devolution arrangements.

The development of the frameworks has followed a phased approach, which includes in-depth reviews, ministerial sighting, stakeholder engagement and parliamentary scrutiny. The draft nutritional labelling framework has been shared with you for the parliamentary scrutiny stage. We hope to put the food and feed framework to you formally in the next few weeks for the parliamentary scrutiny phase. We are just about to enter the stakeholder engagement phase on the food compositional and labelling

framework, which proceeds the parliamentary scrutiny stage, and we hope to get that to you early in the new year.

Colleagues in Northern Ireland continue to be part of the Executive Office's common frameworks forum, which provides guidance and support in the development of the frameworks. It also allows FSA officials to provide regular updates on our framework development.

I want to say something about how the frameworks interact with some of the other cross-cutting approaches because a number of different angles are at play. Following the provisional JMC agreement to the frameworks, we need to review them further considering the implications of cross-cutting elements, such as the UK Internal Market Bill, the review of intergovernmental arrangements, and the outcome of the UK/EU free-trade agreement negotiations before we finally agree on them.

I also want to mention the Northern Ireland protocol, which I know will be key in the minds of the Committee. Common frameworks have been drafted with the Northern Ireland protocol and the Good Friday Agreement in mind. Nothing in them will cut across the protocol's implementation. The Government have also committed to delivering unfettered access for Northern Ireland businesses to the whole of the UK market. Throughout the development of the three frameworks that the FSA has had a hand in, officials have considered the protocol and the different circumstances in Northern Ireland in some depth. The implementation of the protocol means that, in some instances, Northern Ireland will not implement the same outcomes as England, Scotland and Wales. However, the frameworks mean that policy development and decisions will continue to be considered on a four-nation basis. Importantly, officials and Ministers in Northern Ireland will continue to play a vital role under the arrangements agreed in these frameworks.

I can give the Committee an overview of each of the three, but if you wish to tell me what you would like to hear, we could take it from there.

The Chairperson (Mr Gildernew): We will go to members' questions, Emily, and then we will see whether there is anything outstanding after that, or do members want to hear the detail? We will go to questions, Emily and Sharon.

I take it that the stakeholder engagement that you mentioned was across England, Scotland, Wales and here. Can you give us detail on local stakeholders' views? How many were involved locally, and what were their views and concerns?

Ms Miles: Thank you. I will ask Sharon to answer that.

Mrs Gilmore: OK, thank you. The stakeholder engagement for the nutrition labelling framework happened about a year ago, so it was some time ago. There was an event in London where Northern Ireland stakeholders shared with the communication of that. Our constitutional colleagues, the Executive Office, went to that meeting, and we shared all the outcomes of it.

From memory, no one from Northern Ireland travelled to the stakeholder event, but the British Retail Consortium (BRC), which operates businesses in Northern Ireland, the Food and Drink Federation and other key stakeholders representing the UK and Northern Ireland did.

The Chairperson (Mr Gildernew): OK. It seems a bit strange to have a consultation only in London, given the potential impact here on food standards and food production, which is so heavily integrated. I am concerned that a consultation event took place only in London, especially in the modern era when we have all sorts of online abilities.

What views were expressed by those who took part? You said that you shared the outcomes. Do I take it from that that the outcomes were shared rather than the process being engaged with, and what views —?

Mrs Gilmore: No —

The Chairperson (Mr Gildernew): Sorry for interrupting, but what views did the participants express, Sharon?

Mrs Gilmore: OK, thank you. The documents were shared with them. One of the most commonly shared views was that stakeholders welcome engagement and the consultation, and they welcome

the opportunity, particularly through future policymaking, to be involved in all stages of the process and at all times. They want to continue to be involved in it.

The Chairperson (Mr Gildernew): Did they make written submissions? If they did, could the submissions, or a summary of them, be shared with the Committee?

Mrs Gilmore: There were no written submissions, as such. Rather, it was rather through that particular process and event.

The Chairperson (Mr Gildernew): OK. It does seem rather sparse, I have to say.

We may come back to you for further information on that, Sharon, but I want to move on.

What is the process by which our participation in the framework would be discussed if, say, England, Wales, or Scotland, individually or collectively, decided to diverge from the standards? What process would be used to ensure that there was still uniformity here?

Mrs Gilmore: At the moment, there is a policy group structure that sits across the four nations. The policy experts sit on that and, so far, they have had a number of dry runs of what that would look like between England, Wales, Scotland and Northern Ireland. The policy officials meet and we talk through what divergence might look like.

We have also developed an impact assessment document with enhanced assessments looking at the issues of the Northern Ireland protocol and at what impact any decision taken for the United Kingdom could have on Northern Ireland, which will continue, through the protocol, to follow EU rules. We are developing how that would look in the long term.

An independent committee has been created in the nutrition labelling framework for nutrition and health claims. Northern Ireland and the FSA have observer status on that committee, and the policy group will look, through a risk-management process, at the scientific opinions that come out, and Northern Ireland's impact assessment will feed into that. We will look at what impact a decision that may be implemented in Great Britain will have on Northern Ireland businesses and consumers through the sharing of surveillance data. We have national diet and nutrition surveillance data for Northern Ireland that looks at the nutritional status of Northern Ireland's population. That information can be fed in to look at the impact that any such decision would have.

Mrs Cameron: Thank you, Emily and Sharon, for your attendance today. The framework covers policy areas where Northern Ireland has no freedom to follow Great Britain. Is there a real possibility that, down the line, baby food produced in Great Britain, for example, will not be allowed to be sold in NI because it does not meet EU standards? How can we improve the framework to give greater certainty to businesses operating in the NI market?

Mrs Gilmore: In the example of baby food, before there is any divergence from EU rules, from day one, there will be the same rules in Great Britain as in Northern Ireland. Before a decision is made to diverge on something like baby food, there would have to be a rigorous independent assessment of the need to diverge and then a risk-management decision on that change. At that stage, the impact on Northern Ireland would be considered, so, if there was a divergence and a reason why a product was not meeting EU rules, we would have to think what that would be and then look at how it could get to Northern Ireland. From a safety point of view, we are trying to look, through the nutrition labelling policy group, at areas where there could be changes, but, when taking the risk-management decision and doing the independent assessment, the divergence would be difficult to see from a food safety or food labelling point of view. However, if there was divergence, the product may not be able to get into Northern Ireland because we are following EU rules.

Ms Miles: Perhaps I could add to that and say that, in some cases, divergence will be completely appropriate, but if the four sets of officials on the committee considered that the proposed divergence — that might include from EU law — was disproportionate or unnecessary, there is a dispute-resolution process in the framework that can be followed, and that can be triggered by officials or, indeed, Ministers, from any of the four nations.

The second point is about certainty for businesses in Northern Ireland. Because the Internal Market Bill provides for mutual recognition, products that are authorised by the EU would automatically be

allowed into GB. It does not work the other way because of the Northern Ireland protocol, where EU rules would apply. I just wanted to mention how those two things fit together.

Mr Buckley: Thanks for the presentation. I have two mains concerns. First, the framework seems to have been developed in the absence of devolved Government in Northern Ireland or, indeed, even final agreement on the withdrawal agreement. I have another concern, which has already been mentioned, about how it interacts with the potential for divergence between Northern Ireland and GB on food standards if and when the protocol comes into effect. I have read this document, so could I ask this: why does the framework not address what seems to be the elephant in the room, namely that this common framework will be blown apart if either GB or the EU follows different standards? That could leave Northern Ireland at a significant economic disadvantage.

Mrs Gilmore: This framework is ahead of the majority of the frameworks. It is going through phase 3. The protocol had not come into effect at that stage, and we are seeking further parliamentary scrutiny to bring into effect the protocol on this. We have further deep dives planned for November, and the protocol will be the key piece to look at. It is an area that I have been bringing forward through the framework, the policy discussions and the dry runs that have been happening so far, in order to bring into the framework the impact that the protocol will have, where we cannot follow GB rules and instead will be following EU rules. It is about bringing the protocol in through the structures and about the management, particularly the risk management, in taking it forward.

Ms Miles: I know that there has been heavy involvement from officials from the Northern Ireland Executive in the development of the frameworks over the past few months and before that. I accept that that is not the same as involving Ministers previous to January.

There will be some cases in which divergence is OK and appropriate. The example that I often think of is raw drinking milk. In England, Wales and Northern Ireland, we have particular risk-management controls to ensure safety, but, in Scotland, raw drinking milk is not permitted for consumption by consumers. That does not affect the workings of the internal market of the UK. Divergence can therefore be OK, but, in some cases, it will not be comfortable. The intention behind the framework is that the risk analysis and the scientific basis on which decisions are put to Ministers is common among the four nations, so we are trying to take as joined-up an approach as possible, but there are opportunities for divergence envisioned in the framework.

Mr Buckley: I am glad to see that there will be further engagement on that point, because there no doubt needs to be refreshment of the framework to take into account the dangers of the protocol and to give the Northern Ireland Departments and, indeed, the institutions greater power to challenge such divergence if it does put Northern Ireland at an economic disadvantage.

Ms Miles: There is an opportunity for Northern Ireland Ministers to challenge the divergence through the dispute resolution process that is in the framework. That is exactly what it envisages.

Ms Bradshaw: Good morning, ladies. Thanks very much for your presentation. I want to ask about the number of staff in Northern Ireland who are working on this. Are the numbers temporary or will they endure going forward? Who is providing the funding for the staffing levels? Is it the UK Government or is staffing covered out of the Northern Ireland block grant?

My second question picks up on the Chair's comments about engagement in Northern Ireland. As we go forward, it is not necessarily just about engagement but about communicating and ensuring that people are kept up to speed with potential changes that are coming down the line. Are you confident that our food producers and so on are receiving timely and relevant information so that they can adjust as we go forward?

Mrs Gilmore: We have taken on one further member of staff to focus on this. I am sure that Emily will inform you about how we are building up our capability in FSA England, particularly on the science and evidence that will help support us here in Northern Ireland. We are a three-country organisation, but the science and the evidence base very much sits within FSA England. We as policymakers in Northern Ireland will take that forward using the information with which we are provided. We have taken on board one further senior executive officer, and funding for that post has come out of our finances in Northern Ireland, although the finances in England are helping to bolster the support and expertise that we will receive.

Ms Miles: To supplement that, we are very grateful for the funding that we receive in Northern Ireland. We received additional money, to the tune of about £40 million, for our EU exit preparations, and that spreads across a number of different areas. I would not characterise it as "FSA England". Some of it is for reserved matters.

In the process, we have been building up our risk-analysis function. We have doubled our risk assessors from 25 staff to 50 staff, who are mostly scientists. We have also expanded our scientific committees, so we now have an additional 300 scientific experts from academia whom we can draw on in order that we can do that very careful risk analysis. In effect, we have had to build up the function that the European Food Safety Authority (EFSA) has so that we can bring it back home and do it in the UK. That resource is available to Ministers in Northern Ireland, Wales and England. A Northern Ireland Minister, for example, could commission that risk-analysis function for Northern Ireland's own purposes, if desired.

I accept your point about engagement. It is really important, and we could perhaps have done better there. It is important to remember, however, that this is a framework for governance. It is not a policy decision-making moment. It does not set out changes to particular rules. Rather, it sets out an approach for how we discuss those rules.

Ms Flynn: The close working relationship that, naturally, you have had with your counterparts in England, Scotland and Wales when designing the common framework is referenced a few times in the document. What conversations, if any, have taken place with your equivalent in the South of Ireland? Who will be the representative from the North on the policy group? I do not know whether you have assigned someone to that group already.

Mrs Gilmore: I will answer that. We have a good working relationship with the Food Safety Authority of Ireland (FSAI), and we have been very careful through the development of the framework to ensure that nothing will prevent that cooperation from continuing. We have a memorandum of understanding with the Food Safety Authority of Ireland, and part of it includes the nutrition, labelling and health legislation. We, as the policy group and senior management group in Northern Ireland, meet regularly with the FSAI to talk through particular areas on which we can join up. On the nutrition side, we are, for example, looking at food supplements and wider dietary health areas at the moment. We have had regular conversations with the Food Safety Authority of Ireland, and we continue to do so.

What was your second question? I cannot quite remember.

Ms Flynn: Have you appointed the person who will represent the North on the policy group?

Mrs Gilmore: Yes, we have appointed someone. I head up the team, and a senior official, Kerry Gribbin, has been appointed. Kerry has so far carried out a number of dry runs on the four-nation policy group to look at such areas as the authorisation of a health claim and how that would come out of the scientific committee. The scientific committee has done a number of dry runs as well. It receives scientific opinion through stakeholder engagement and so on. It will make a risk-management decision within a certain period to parallel what happens in Europe.

Ms Flynn: That is great. Thank you very much.

The Chairperson (Mr Gildernew): Thank you, Emily and Sharon. There is no doubt that members will want to see you again when the impact of the protocol is worked into the framework, so, in that sense, there is more do to. Thank you for briefing us and providing answers to our questions.

Emily, is there any other information from the three areas that you outlined at the beginning that has not been touched on but would be useful to the Committee?

Ms Miles: Thank you for asking. No. You will have other opportunities to take evidence on the other two frameworks that are in front of you, and we should get into them in more detail then.

The Chairperson (Mr Gildernew): That is fine. The Committee will have a quick discussion now. Thank you again for joining our meeting. Good luck with the complicated area in which you are working.

Mrs Gilmore: We have a summary of the stakeholder event that took place, and we are happy to share it with the Committee if it feels that it would be useful.

The Chairperson (Mr Gildernew): Members would appreciate that. Thank you very much. That would be useful.