



Northern Ireland
Assembly

Committee for Agriculture, Environment and
Rural Affairs

OFFICIAL REPORT (Hansard)

Common Framework for Resources and
Waste Policy: Department of Agriculture,
Environment and Rural Affairs

14 January 2021

NORTHERN IRELAND ASSEMBLY

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Common Framework for Resources and Waste Policy: Department of Agriculture, Environment and Rural Affairs

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Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr Harry Harvey
Mr William Irwin
Mr Patsy McGlone

Witnesses:

Ms Janice Harris	Department of Agriculture, Environment and Rural Affairs
Mr Robert McLaughlin	Department of Agriculture, Environment and Rural Affairs
Mr John Mills	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Mr McAleer): From the Department, I welcome, via StarLeaf, John Mills, head of the environmental policy branch; Janice Harris, grade 6 in the environmental policy branch; and Robert McLaughlin, deputy principal in the environmental policy branch. I invite the officials to brief the Committee, and members will then ask questions.

Mr John Mills (Department of Agriculture, Environment and Rural Affairs): Good morning, Chair. I hope that you and Committee members can hear me OK.

The Chairperson (Mr McAleer): Yes.

Mr Mills: The purpose of the briefing is to provide information on the progress made by the UK Government and the devolved Administrations in developing a UK-wide common framework for resources and waste. This is one of 15 frameworks across DAERA, with 10 on the environment side. The draft provisional framework and concordat are going through internal clearance as part of what is called phase 3 and will be sent to the Committee for consideration during phase 4. In the interim, we have provided the Committee with a summary paper on the framework, which, I think, the Committee received last week.

Turning to the reasons *[Inaudible]*—

The Chairperson (Mr McAleer): John, you are cutting out.

Mr Mills: — for the framework [*Inaudible.*] Sorry, Chair?

The Chairperson (Mr McAleer): You are intermittent, John. You are cutting out.

Mr Mills: OK. My system is not telling me that I have a problem here.

The Chairperson (Mr McAleer): You are OK now, John.

Mr Mills: OK. I will try again.

EU law provided the legal framework across the UK until the end of the transition period, and the frameworks are intended to set out arrangements for joint working from 1 January 2021. On 16 October 2017, the Joint Ministerial Committee (EU Negotiations) agreed a set of principles that would determine the creation of common frameworks. Those principles have been included in the development of the resources and waste common frameworks. They include enabling the function of the UK internal market, ensuring compliance with international obligations, ensuring that the UK can enter into trade negotiations, enabling the management of common resources, administering and providing access to justice in cases with a cross-border element, and safeguarding security.

The frameworks will respect the devolved settlements and the accountability of devolved legislatures. They will also recognise the economic and social linkages between Northern Ireland and Ireland, and recognise that Northern Ireland will be the only part of the UK that shares a land border with the EU. They will also adhere to the Belfast Agreement.

Resources and waste is a policy area that the UK Government, as part of their framework analysis, decided needed a common framework. The framework covers producer responsibility, including such things as packaging, batteries, waste electronic and electrical equipment, and other areas; various technical standards; waste classifications, including hazardous waste; data reporting and monitoring; recycling; waste collection; the circular economy and other matters. Generally, it covers issues across the waste spectrum.

Decision-making on reserved matters, such as the international shipment of waste, will continue to sit with the UK Government in line with the devolved settlement. However, the UK Government will involve the devolved Administrations as fully as possible in decision-making on non-devolved matters that impact on or have an importance in the devolved area.

The framework recognises that waste is a devolved area of competence and that each jurisdiction has its own strategies, waste management plans and waste prevention programmes, as well as different approaches to recycling. It recognises that the various jurisdictions are entitled to follow their own paths on that.

Where EU directives had set minimum targets, different jurisdictions have had different standards. Again, that is recognised. Against that, some waste streams, notably producer responsibility regimes, currently operate on a UK-basis anyway and are underpinned by GB legislation and equivalent Northern Ireland legislation or by UK-wide legislation.

Quite a few interdependencies are recognised by the framework, in things such as waste from chemicals, water, marine, agriculture and so on. It also recognises that value chains and materials are traded as a commodity on waste and that there will be a need to provide for joint working between the four Governments to ensure that the regulatory agencies can work together on things such as research and strategies. The framework is about internal arrangements between UK Administrations, so there is no direct impact on stakeholders.

On governance, the framework will have an associated concordat and deal with establishing the method of working together through things such as working groups, inter-Administration information sharing and stakeholder engagement, including arrangements for developing the UK position on reserved matters. It will set out principles and processes for decision-making. Those will include regular meetings, sharing of information, advance notification of policy developments that might impact on other jurisdictions, consideration of new arrangements to cover, for example, loss of access to advisory groups or EU research, and the avoidance of policies in one jurisdiction adversely affecting

another. There will also be a dispute resolution procedure, based largely on the current inter-ministerial group.

On future development, the framework, being a voluntary and non-statutory agreement, does not require legislation. EU legislation already provides a legislative background in the area of waste. This is anticipated to develop over time, so the framework will also take account of the fact that things could change.

Finally, I move on to the next steps. The framework is currently provisional. The four jurisdictions will continue to work together to develop the detailed proposals for the resources and waste common framework, taking into account any impacts from the recent trade and cooperation agreement between the UK and EU. Provisional agreement of the framework has been provided by Ministers in the four jurisdictions and will be confirmed by the Joint Ministerial Council in due course. Further development of the provisional framework, including scrutiny by the four legislatures in the UK and further engagement with stakeholders, will be undertaken following that Joint Ministerial Council sign-off. Following that, the final framework will be agreed by Ministers in the four Administrations.

That was quick coverage of the framework agreement, and we are happy to answer any questions on that.

The Chairperson (Mr McAleer): Thank you very much for that, John. Your report and paper mention the issue of waste and recognising the North/South and land border issue. For many of us who represent constituencies along the border and, indeed, throughout the island of Ireland, the issue of cross-border movement of waste is massive. This is a common framework within the four jurisdictions — the North, Wales, Scotland and England. What depth and scale of involvement have you had with your counterparts in the South of Ireland? This is a huge issue, particularly in border regions.

Mr Mills: Obviously, the main formal arrangements are through the North/South Ministerial Council and the British-Irish Council. The environment is one of the areas that they cover, and waste is a frequent agenda item in that area. On the ground, there is a range of operational cooperation between agencies such as the Environment Agency, and people engage with their opposite number on waste crime and so on. Waste shipments are one of the legislative items in the Northern Ireland protocol that we will follow. The arrangements that we had as part of the EU will continue. There are all those reasons for North/South cooperation to continue.

On the question about any negotiations that we have had with Southern colleagues, we have been having contact with the EU as a whole, so we have not engaged at a policy level with Southern colleagues so far, but I expect that to change now that we have the cooperation agreement in place. Do you have anything to add to that, Janice?

Ms Janice Harris (Department of Agriculture, Environment and Rural Affairs): The policy teams keep in touch with colleagues in the South, and they collaborate and discuss as necessary in the policy development forum as well. There are well-established relationships.

The Chairperson (Mr McAleer): Before I move to members, I want to take this a bit further. You mentioned, John, that this framework is, effectively, in draft form at the moment but that the different regions will develop it further. Will there be an involvement with the South in fleshing out the strategy? On-the-ground involvement is important, absolutely, but high-level involvement is also very important, given the unique circumstances on this island.

Mr Mills: This framework, and all of the frameworks, is about the relationships between the jurisdictions in the UK. That is certainly how I see the ones that I have been involved in. We were in the EU. It set the rules, and all jurisdictions of the UK had to do the same thing. We have lost that, or left it behind, and the frameworks are there to build cooperation between the jurisdictions.

I do not see that there would be or has been any involvement of Southern colleagues in the framework, but the framework document states that any future arrangements must take account of the fact that we live on the island of Ireland and have close relationships with our Southern counterparts. The recognition of the point that you made is there, but, as a mechanism, the framework is really an inter-UK thing.

The Chairperson (Mr McAleer): I want to reiterate that point. I appreciate that it is an inter-UK thing, but we share a 300-mile land border with an EU member state and are on one island, which is an epidemiological unit. For everybody's good, it is crucial, at every level, that that harmonisation is there.

Mr Mills: Yes, certainly. The arrangements under the Northern Ireland protocol will ensure that that happens on things like waste movements, where we will continue to have the same arrangements as the South. Those arrangements will possibly be different from those in GB.

The Chairperson (Mr McAleer): Thank you, John.

Mrs Barton: Thank you for your presentation. You mentioned the protocol briefly. Will you go into a wee bit more detail about how it will impact on and interact with the framework?

Mr Mills: OK. The protocol identifies any number of things on which Northern Ireland will follow existing EU rules, directives and regulations. Five of them affect the waste area: waste shipments, producer responsibility arrangements on packaging, batteries, electrical and electronic equipment waste, and one other.

Ms Harris: Ship recycling.

Mr Mills: Yes, thank you. The Northern Ireland protocol will require Northern Ireland to follow what the EU does in those areas. The need to do that will probably have a knock-on effect on slightly wider areas of waste. In the other areas where there is no requirement, we will follow what is called "retained EU law", which is the EU law that has been preserved. The framework will cover all of that, but the protocol means that we will have to follow EU rules in the areas that I mentioned. The protocol will override the framework because it is an international and domestic law requirement. It will override anything in the framework that is not law.

Mrs Barton: Do you see any financial implications in relation to that?

Ms Harris: No. We do not anticipate any financial implications at all. It is purely an administrative arrangement between the four constituent nations.

Mrs Barton: OK.

Mr McGuigan: My questions follow on from two previous questions on governance arrangements. As the Chair and Rosemary pointed out, we will have to abide by the Irish protocol, and there is also the fact that we live on an island. We have those characteristics to deal with. I am concerned about the governance arrangements for the protocol and about our devolved institution being allowed to develop policies specific to here. Will you provide a bit more detail on the priorities of the devolved institutions when making laws with regard to this framework?

Also on the protocol, will you provide a bit more detail on whether this framework has any impact on North/South or international trade?

Mr Mills: First, on your question on devolution, the framework goes out of its way to recognise that it cannot override the arrangements whereby we have the ability to take our own course on areas such as recycling or other areas of waste management. As the framework is non-statutory, it cannot override our ability to make our own laws, and it is not trying to. What it is trying to do is to make sure that there is an exchange of information and that there is a warning so that there are no adverse impacts should one jurisdiction follow a policy that might have an adverse impact on another jurisdiction. From our point of view, it is also quite helpful that certain aspects, such as shipments of waste, are reserved to the UK Government. It is in the interests of Scotland, Wales and Northern Ireland to ensure that they are properly consulted on those. The framework does not override our ability to adopt our own policies. Where the Northern Ireland protocol is concerned, as a matter of international and domestic law, we will have to follow what the EU does, not what the UK does, so it cannot override that.

On the effects on trade —.

Ms Harris: *[Inaudible.]*

Mr Mills: Sorry, Janice, go ahead.

Ms Harris: The guiding principles under which this has been established are designed to ensure that we do not have a negative impact on North/South or international trade.

The Chairperson (Mr McAleer): OK. Are you happy enough with that, Philip?

Mr McGuigan: Yes. Thank you.

Ms Bailey: I note that the Department is saying that there are no immediate changes for stakeholders. Do Department officials feel that there is no need for immediate change within the sector or *[Inaudible?]*

Mr Mills: Sorry, I did not catch the end of that.

Ms Bailey: OK. I was just wondering, given that you are stating that there are no immediate changes for stakeholders with this common framework, whether you feel that there is no need for immediate change in the sector.

Mr Mills: On waste, we already have a lot of good relationships across our joint working. We already have various groups set up, so I do not see it as a problem area, or an immediate problem area.

I do not think that much of this will be of great concern to stakeholders, to be honest, and we have not had any such feedback. Janice, did DEFRA go out to stakeholders?

Ms Harris: Yes. The frameworks have been mentioned in various stakeholder forums, and there has been no substantive feedback on this framework. It is acknowledged that it is a document on internal Government working arrangements, rather than changing substantial policy areas.

Ms Bailey: OK. Given that this is a voluntary agreement programme and not the application of a legal or legislative framework, how does Northern Ireland compare with other UK regions and with Ireland? I am thinking particularly about legislation. Legislative frameworks across the islands are very different in respect of, for example, single-use plastics legislation, illegal dumping and benefit costs to the sector and to businesses. Has a comparative study been done? If not, will such a study be done to provide a possible starting point for what this voluntary common framework will be?

Mr Mills: The body of the framework listed all the various legislative areas, of which, as you correctly say, there are many. On divergence, there are a number of different approaches to, for example, deposit and return, where Scotland does something slightly different. We are already working together on that. Equally, other areas, as I mentioned, such as producer responsibility for things like packaging, are common across the UK. That is quite an advantage and one that many businesses operating across borders would prefer to be maintained.

On single-use plastics, part of the agreement on the implementation of the Northern Ireland protocol on about 10 December last year, preceding the overall agreement, was a paper called 'Decisions of the Withdrawal Agreement Joint Committee on Errors and Omissions'. As a result of that, aspects of the single-use plastics directive have been adopted as part of the Northern Ireland protocol. The issue of single-use plastics is a late addition to the Northern Ireland protocol, and there will not be divergence with the South on that because we, like the South, will have to follow EU requirements.

Ms Bailey: OK. Is current Northern Ireland legislation, particularly the adherence to it, including enforcement and monitoring, adequate for us to move forward with a voluntary common framework? In particular, could this allow the UK Government, for example, or any other body or organisation, to come here and examine practices under the protocol? Does it create any sort of possibility for that to happen?

Mr Mills: It does not allow the UK Government to do anything that they cannot already do. It does not allow the UK Government to interfere or tell us to do anything more, and, if they did, they would be strongly resisted by our Scottish and Welsh colleagues — that is for sure.

As for resources and allowing us to do things, cooperation across jurisdictions generally helps to save resources. If a consultation on some areas goes out across the UK at the same time, we will do that where it is sensible to do so. Where Ministers decide to take a different approach in Northern Ireland, they will continue to do so.

Ms Bailey: Under the protocol, are there any other bodies that could come in and work with us or examine practices here on the ground?

Mr Mills: In the areas where we have to apply EU law, the European Commission will retain oversight of them. When and if the Assembly implements the provisions of the Environment Bill, the Office for Environmental Protection will be the new body with an environmental oversight role that includes waste. That will replace the EU oversight that we have left behind in those areas of the environment that are not covered by the Northern Ireland protocol.

Ms Bailey: OK, thank you very much. Cheers.

Mr Harvey: Thank you, Janice and John. How will the framework interact with other frameworks with which it intersects? What are the arrangements for reviewing and changing the framework?

Mr Mills: Do you want to take that, Janice?

Ms Harris: Sure. In each of the frameworks where there is intersection — for example, in the chemicals framework — there will be a reference to this framework, and vice versa. Sorry, what was your second question?

Mr Harvey: What are the arrangements for reviewing and changing the framework?

Ms Harris: Once we have it agreed, there will be an initial review after six months and then a year. After that, we will go to a three-yearly review. There is also provision for an ad hoc review if something really unusual happens: for example, if there is severe disruption.

Mr Harvey: OK. Janice, what is the timeline for the development of the framework, including Committee scrutiny and its implementation date?

Ms Harris: All of the frameworks will shortly go, en masse, to the Joint Ministerial Council to be agreed and signed off for phase 3. We will start phase 4 at an official level following that, and we will look at it in light of the fact that we are now through the transition period and have the agreement with the UK on trade. We will engage with stakeholders and with the Committee. Next time, you will get the framework rather than just the summary document. Once we are through that process, the framework will go through the ministerial structure again, and we will start to operate it. Operating the framework is phase 5, so, within the next 12 months, we should be through those two final phases.

Mr Harvey: Thank you very much.

The Chairperson (Mr McAleer): Janice, Robert and John, thank you very much for coming before the Committee this morning, answering all our questions and providing a comprehensive briefing on this framework. We will see you again.

Ms Harris: Thank you.

Mr Mills: Thank you, Chair.

The Chairperson (Mr McAleer): All the best, John, Robert and Janice.