



Northern Ireland
Assembly

Committee for The Executive Office

OFFICIAL REPORT (Hansard)

Common Frameworks: Executive Office
Briefing

13 January 2021

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colin McGrath (Chairperson)
Mr Doug Beattie (Deputy Chairperson)
Ms Martina Anderson
Mr Trevor Clarke
Mr Trevor Lunn
Mr George Robinson
Mr Pat Sheehan
Ms Emma Sheerin
Mr Christopher Stalford

Witnesses:

Mr Stephen Hamilton	The Executive Office
Mrs Lorraine Lynas	The Executive Office
Mr Michael Williamson	The Executive Office

The Chairperson (Mr McGrath): The departmental briefing paper for this session was received at 9:44 am today. Apologies for the late forwarding of that to members, but we only received it today. That is interesting given that we have written correspondence from the First Minister and deputy First Minister telling us that they will endeavour to ensure that all papers are supplied to us in a timely manner. I will let you deal with that piece of fiction when we raise it later. We have reached the third item of our agenda and that rule has been breached again.

Anyway, I welcome back Lorraine Lynas from the EU future relations division in the Executive Office, and I hope that we have Stephen Hamilton and Michael Williamson from the same division. I advise you that the session is being reported by Hansard and the transcript will be published on the Committee web page. Lorraine, are you taking the lead?

Mrs Lorraine Lynas (The Executive Office): Yes. Can you hear me?

The Chairperson (Mr McGrath): Yes.

Mrs Lynas: Thank you for the introductions and the opportunity to provide the Committee with an update on common frameworks. The Committee was most recently updated on 7 October, and, as you have mentioned, a short briefing paper is provided on the progress that has been made since that briefing. I take this opportunity to apologise for the fact that the paper was received by the Committee just prior to the meeting.

In considering the progress on the development of the individual common frameworks, it is important to recognise the major events that have occurred in the past few weeks that will have a significant impact on the development of common frameworks in the coming year. Those include, as I mentioned in the previous presentation, the key decisions on the implementation of the protocol that were agreed by the Withdrawal Agreement Joint Committee on 17 December. On the same day, the Internal Market Act was given Royal Assent, and the UK and EU reached agreement on its future relationship on 24 December. That passed into law on 30 December. Since then, we have had the end of the transition period, on 31 December. In addition to the briefing provided, the ninth EU Withdrawal Act and common frameworks statutory report was published by the Government on 10 December. It is a good source of information and sets out the UK's position on the development and implementation of the common frameworks between June and September of last year.

I move now to progress that has been made since the previous briefing. The main activity was the completion of stage 3 of the priorities frameworks. As set out in the paper, the review and assessment process for 35 outline frameworks was completed in mid-November. That process assessed a range of criteria for each framework, including governance, impact on the internal market, dependency on the outcome of the future relationship negotiations, and stakeholder engagement. It also considered the specific circumstances for Northern Ireland, particularly in respect of adherence to the Belfast/Good Friday Agreement; the economic and social linkages between Northern Ireland and Ireland; and whether there was an impact on areas identified for North/South cooperation and implementation through NSMC and how they would operate with the protocol.

Following the completion of the review and assessment process, the common frameworks were approved by the respective Ministers and have been submitted for provisional confirmation by the Joint Ministerial Committee (European Negotiations) (JMCEN). Three frameworks did not complete the process, and the details of those are set out in the briefing paper provided.

Throughout the common frameworks development process, it has been recognised that the cross-cutting issues of the protocol, the terms of the UK's future relationship with the EU, the internal market and, to a degree, the outcome of the intergovernmental relations review, would affect the final form of the majority of the frameworks. However, development could not be delayed until those issues were resolved, and consideration now needs to be given to the next steps in the process. Given the major developments, a stocktake of the common frameworks programme is being carried out. It will inform the next stages. Following provisional confirmation by JMCEN, the procedure that had previously been agreed is that each common framework will be submitted to the relevant Committee for scrutiny prior to implementation. Arrangements are also under consideration for the management of that process, given the Scottish and Welsh elections, which will have an impact on the scrutiny timetable.

In conclusion, I emphasise that the role of the EU future relations division in the common frameworks programme is to play a central governance and oversight function across the four Administrations and the NICS Departments. Responsibility for developing the individual common frameworks remains within the relevant departmental policy teams and ministerial portfolios. As the Committee is aware, the profile of the common frameworks has increased during the passage of the Internal Market Bill and the establishment of a House of Lords scrutiny Committee. Common frameworks remain an important area and, in conjunction with the Internal Market Act, will define the relationship between the four areas within the UK, and play a role in managing policy divergence as we move forward.

Stephen, Michael and I will be happy to take any questions on the briefing paper or the presentation.

The Chairperson (Mr McGrath): Thank you very much. I appreciate that presentation, and that this is the second go for you today, Lorraine.

I want to tease something out. Pre 31 December, there was not a full understanding — it was not quite confusion — of what was actually required by the common frameworks process, and there was certainly a lack of clarity around the Assembly about who would have to deal with which elements of it. The deal has come after the sphere that we were in before the Christmas break. Do you feel that having that deal in place changes the timeline for the common frameworks and their implementation, and is there a change to the processes that have to be followed in the Assembly as a result?

Mrs Lynas: At present, there is no change to the timeline. It is still that, once the common frameworks receive their JMCEN provisional confirmation, they will then move to the scrutiny stage. However, as I mentioned, we are having discussions within the governance structure about whether, at this stage, that needs to be looked at. I cannot say for sure that that will be the process. That is the defined process at present, but we certainly need to look at that, because the purpose of getting the

frameworks through to stage 3 by the end of the year — the end of transition — was certainly done with one eye on the possibility of there being no deal in place. There is a deal in place now. There is a lot of information there, so we may have to provide that to you at a future point or we may write to you and say what the next process will be. There has been no firm decision to change the route that we are on, but we need to think seriously about it.

The Chairperson (Mr McGrath): The Executive Office Committee scrutinises The Executive Office, which is charged with this process, albeit that other Committees do the scrutiny of the individual common frameworks. There were a number of key delays in that scrutiny process for the handful of common frameworks that were dealt with before 31 December. Has any work been undertaken by the Department to try to work out what caused that delay and why there was not timely sharing of the information from London with Committees here? Has that been prepared for, and maybe tightened up, going forward?

Mrs Lynas: It is a key issue, and the issues that were raised by the Committee in its letter were helpful, even for us to understand. Our role at a central level has been to develop central guidance for each [*Inaudible*] and that was developed in October, and then, centrally, in the Northern Ireland Civil Service, we developed the guidance that has been shared with the Committee today. We have been aware of some issues and have asked Departments to make us aware of any difficulties in engaging with their Committees. We want that feedback so that we can feed it back into the overall Cabinet Office position on that.

There were a few issues on the transport side. I might bring Michael or Stephen in to add a bit more detail, but some of the issues may even be that, in some cases, a paper was laid as a Command Paper in the Houses of Parliament but the policy teams might not have understood what a Command Paper meant. We need to keep an eye on that. We need to understand when the guidance is not being followed, but, more importantly, we need to understand the risk and the impact of the guidance not being followed, because it is really important that each Committee sees and scrutinises the same version of the document. I will hand over to Michael or Stephen, if they want to add anything further on the issues that some Departments have raised so far.

Mr Michael Williamson (The Executive Office): I am afraid that I do not have an awful lot to add to what Lorraine has outlined. It is unfortunate that there were those delays, and we apologise for them. A lot of it was, unfortunately, down to teething issues. There was a bit of a lack of communication and a misunderstanding of the process because they were the first couple that were going through. I think that there were a few cases where policy teams were expecting a bit more notice — the process of laying the Command Paper in the UK Parliament progressed a lot more quickly than policy teams here expected it to, so they were caught on the hop. As Lorraine has outlined, we have engaged with the Departments again on the guidance, and we are trying to understand all of the issues that there has been so that we can rectify them before the next time.

The Chairperson (Mr McGrath): OK, that is grand. Thank you very much.

Doug Beattie, as the Deputy Chair, do you have any questions for this section?

Mr Beattie: No, Chair, I am OK, thank you. I was just listening there, but I do not have any questions.

The Chairperson (Mr McGrath): OK. I will pass to Martina Anderson. Martina, if we can get you into the spotlight, then we can get you to ask a question.

Ms Anderson: Yes, I am in, Chair.

Obviously, there is a crossover between this Brexit briefing and the one that we had prior to this. However, given Tim's new role in the North/South Ministerial Council and that he is in the room, I will take this opportunity to ask a question. I am a bit concerned about their being a serious democratic deficit issue because of how some of these were rushed through. The Committee, for the last six months and more, has had regular updates and discussions, and it has been flagging up what these common frameworks might mean, or in trying to ascertain what they do mean. The interim arrangements are in place from 1 January until the final frameworks are agreed, and I just want to know a bit more about what they are. It surprises me a little bit that the policy team was very much caught on the hop, because the Committee has been focused on this, and it has been flagging up issues that we would need to scrutinise. I just make that point, but I know that it is not just this Committee, as these are matters that are affecting all Committees.

Can you offer a little bit more information around the interim arrangements that have been put in place from 1 January, and which are going to be in place until the final frameworks are agreed? The three that have been not agreed were referred to — I did not really hear what they were. Could we get some information on the three that were mentioned that have not yet been agreed to?

Mrs Lynas: No problem. I may need to bring Stephen in on the stage-4 and stage-5 process, which is where we are going next. It is fair to say that we had to change the process as we went through the year because it was recognised that we would not be able to get all of the frameworks in place and due to the major cross-cutting issues that would affect the final form of the frameworks. Therefore, at this stage, these are outline frameworks, and they will move on to further development, including the scrutiny process. Our role in this, at this stage, is to make sure that there now is agreement on the future relationship and the protocol, because we need to remember that the future relationship will interact with the protocol, so they are not two separate agreements. One of the things that they are undertaking at present is to understand how both of those impact. So, there is considerable work for us to do on this in relation to making sure that those factors are understood centrally in the structures that we sit in and then making sure our Departments are also challenging those through their individual engagement at their policy level. I will bring Stephen in to talk about phases 4 and 5, and what you might expect to see during this year for their development.

Mr Stephen Hamilton (The Executive Office): Thank you, Lorraine, for that. Phase 3 was obviously brought forward to make sure that, in not having any certainty or assurance with regard to the content of any negotiated outcome, we would have working arrangements in place to make sure that there were no policy issues at the end of the transition period. We totally accept that the information that is contained in the framework outline agreements has gaps, and those gaps will be filled as we progress through their development for this year ahead, and that is through phases 4 and 5. Of course, whilst there will be empirical research and work being undertaken at policy official level, that will also be informed by further stakeholder engagement and also, of course, through engagement with Committees and their feedback and input to the process. It is about making sure that, as we move forward, all the outworkings of the protocol, agreement and Internal Market Act have been fully taken into account before there is any further endorsement either at sectoral or departmental, ministerial level, or before anything is brought back to JMCEN for endorsement through that forum.

Ms Anderson: We just need to be mindful of that with regard to the outline and provisional common framework because, as I think that you recognise, Stephen, from our point of view as MLAs, the scrutiny role has been very challenging, if not impossible, given the time frame, obviously, that you were working in. We just need to be kept abreast of it.

I think that I should have asked for this at the previous session, Chair, but, given that you are still here, maybe I could ask that the Committee be kept informed about the membership of the joint consultative working group. I should have asked which sectors in the North will be involved, or whether they will be involved: that is the question. Will businesses, civil society and trade unions be involved, or will it just be civil servants and experts from that field? I should have asked that earlier. Sorry, Chair.

The Chairperson (Mr McGrath): That is OK. It will be important to get the response. I think that we would have expected it to be populated by this stage, given that all those sectors are now being impacted but have no voice to articulate their views. Lorraine, is there any indication of the various sectors that will be involved in that?

Mrs Lynas: No. As I said in the previous session, there are still negotiations between the UK and the EU on what the joint consultative working group will look like. We have certainly been asking the question. December was so intense due to all the decisions that needed to be taken on the protocol and getting agreement on the future relationship that it was almost as though everyone just said, "Right. We just need to take a breath. Where do we go next?".

As I said in the previous session, there is a huge amount of work to do on how we join all those governance structures together and how they all interact because there are interdependencies between them. One thing that we would like to consider is, if the common framework falls within the scope of the protocol and the EU decides to change the regulation in that, how we work that through the joint consultative working group, how it interacts with the Internal Market Act, how it works with the Office for the Internal Market, and how the common framework deals with the divergence within it. Therefore, I would say that we have identified the issues and are aware of what we need to do. However, so far, there is not much clarity on how a lot of those governance structures will work. They

are on our radar with regard to our involvement and how we would need to influence in those groups. As I say, you could not underestimate how all those things interact with each other.

The Chairperson (Mr McGrath): Certainly. I appreciate that it is not your work; it is further up the line, even between the EU and UK. It almost sounds a little bit like trying to work out which came first, the chicken or the egg, when there is no chicken or egg. It is difficult for those who are being impacted by something but have no formalised method by which to be able to interact and articulate those concerns or request those changes. That falls back a little to what we discussed with Tim earlier; that there may be a number of informal ways in which to be able to engage and highlight where the problems are. However, if it fundamentally requires agreement between the EU and UK to be able to change something, and there is no formalised method by which to get that on an agenda, that leaves a bit of a deficit. Hopefully, as the weeks roll by, there will be some population of those groups and some structures put in place.

Ms Anderson: Chair, sorry, just one wee small thing, insofar as it is small. TEO is carrying out the equality treatment legislation, the common framework that is responsible for and that falls within the Executive Office Committee. I thought that the equality treatment was covered by the protocol, so I am just a little bit confused as to where that is residing.

The Chairperson (Mr McGrath): Lorraine, is there sense of an update on that?

Mrs Lynas: I think that one is currently with Ministers, as far as I know. I could bring in Michael, who would know where nearly all of them are. Michael, have we an update on that? I think that one is currently under consideration by Ministers.

Ms Anderson: OK.

Mr Williamson: As Lorraine said, it is with Ministers for consideration. It is with the equality directorate in TEO rather than in our team.

Ms Anderson: OK, Chair, we should get a time frame as to when the Committee will get sight of that.

The Chairperson (Mr McGrath): I think so, because I think, Martina, there was some suggestion that that might have been dropped and not coming to us. We can write formally to the Department and ask for an update on that, and we can get the clarity that is needed.

OK, in the absence of any other members indicating that they wish to speak I think that we can bring this section to an end. I thank Lorraine for presenting in both sessions and Stephen and Michael for coming on to this. I appreciate that we were a bit delayed, so apologies if that has interrupted your day, but thank you very much for coming along.

Mrs Lynas: Thank you.

Mr Hamilton: Thank you.