



HM Government

Air Quality Common Framework

Provisional Framework Outline Agreement and Concordat

February 2022

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Provisional Framework Outline

Agreement and Concordat

Presented to Parliament
by the Secretary of State for Environment, Food and Rural Affairs
by Command of Her Majesty

February 2022



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Common Framework: Framework Outline Agreement

This document provides an outline for a UK wide Air Quality Framework. It is intended to facilitate multilateral policy development and set out proposed high level commitments for the UK Government, Scottish Government, Welsh Government and Department of Agriculture, Environment and Rural Affairs, a department within the Northern Ireland Executive (hereafter to be referred to as ‘the Parties’); it should be viewed as a tool that helps policy development, rather than a rigid template to be followed.

The document is made up of four sections:

1. **Section 1: What We Are Talking About.** This section will set out the area of retained EU law under consideration, current arrangements, and any elements from the policy that will not be considered. It will also include any relevant legal or technical definitions.
2. **Section 2: Proposed Breakdown of Policy Area and Framework.** This section will break the policy area down into its component parts, explaining where common rules will and will not be required and the rationale for this approach. It will also set out any areas of disagreement.
3. **Section 3: Proposed Operational Elements of Framework.** This section will explain how the framework will operate in practice by setting out: how decisions will be made; the planned roles and responsibilities for each Party, or a third party; how implementation of the framework will be monitored and, if appropriate, enforced; arrangements for reviewing and amending the framework; and proposed arrangements for resolution of a dispute.
4. **Section 4: Practical Next Steps and Related Issues.** This section will set out the next steps that would be required to implement the framework (subject to Ministerial agreement) and key timings.

Section 1: What we are talking about

1. Policy area

1.1 Environmental quality - Air quality

This agreement includes policies and regulations that aim to reduce harmful emissions and concentrations of air pollutants that can damage human health and the environment, including in relation to national emission ceilings and ambient air quality. This includes regulations that implement international commitments under the United Nations Economic Commission for Europe (UNECE) Convention on Long-range Transboundary Air Pollution (CLRTAP) and the Kiev Protocol (on Pollutant Release and Transfer Registers) to the UNECE Aarhus Convention.

2. Scope

2.1 Retained EU Law and Devolved/Reserved Competence

The elements of retained EU law which intersect with those returning powers falling within scope of this agreement are listed below. These elements of retained EU law are anticipated to remain the same for the foreseeable timeframe in which the Air Quality Common Framework will operate.

The fora set out in the framework will be used in order to have discussions between the UK Government, Scottish Government, Welsh Government, and Department for Agriculture, Environment and Rural Affairs (DAERA) (hereafter referred to as 'the Parties'), on those returning powers falling within either devolved or reserved competence, in accordance with principles set out in the 2012 Devolution MoU. The discussions will be without prejudice to the competence of the UK Government or as the case may be, the competence of the Scottish Government, Welsh Government and the Northern Ireland Executive.

- **The Ambient Air Quality Directive (2008/50/EC) and Fourth Daughter Directive (2004/107/EC).** These Directives set standards, including statutory limit values, for the concentration of pollutants in ambient air. They also define monitoring and reporting obligations. In the UK, responsibility for meeting air quality limit values is devolved to the national Parties in Scotland, Wales and Northern Ireland. The Secretary of State for Environment, Food and Rural Affairs has responsibility for meeting the limit values in England through the Air Quality Standards Regulations 2010 and the Department for Environment, Food and Rural Affairs (Defra) co-ordinates assessment for the UK as a whole. This is implemented through equivalent statutory instruments in the Scottish Government, Welsh Government and the Northern Ireland Executive.
- **National Emission Ceilings Directive (2016/2284/EC).** This Directive sets UK-wide emission reduction commitments for five damaging air pollutants, as well as obligations for the quantification and reporting of air pollutant emissions. The National Emission Ceilings Regulations 2018 implement international commitments under the amended Gothenburg Protocol to the UNECE Convention on Long-range Transboundary Air

Pollution. Emission ceilings and associated reporting obligations including publication of National Air Pollution Control Programmes (NAPCP) are set at the UK-level in the National Emission Ceiling Regulations 2018, however, the Scottish Government, Welsh Government and the Northern Ireland Executive will take action to proportionally contribute to meeting the ceilings as appropriate in areas of devolved competence. Amendments to retained direct EU legislation have since been made through the EU Exit statutory instruments, most notably The Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019.

- **The Industrial Emissions Directive (2010/75/EU) (including linkages to Commission Implementing Decision EU 2018/1135).** This Directive is the main EU instrument regulating pollutant emissions from industrial installations. It requires member states to control and reduce the impact of industrial emissions on the environment. The Directive aims to lower emissions through an integrated approach including through the application of Best Available Techniques (which is subject to a separate Common Framework agreement) and some common standards for certain sectors. Implementation of the Directive is within devolved competence and has been transposed by the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, the Environmental Permitting (England and Wales) Regulations 2016 and the Pollution Prevention and Control (Scotland) Regulations 2012.
- **The Medium Combustion Plants Directive (2015/2193).** This Directive regulates pollutant emissions from the combustion of fuels in plants with a rated thermal input equal to or greater than 1 Megawatt thermal and less than 50 Megawatt thermal. Implementation of the Directive is devolved competence and has been transposed by the Pollution Prevention and Control (Scotland) Regulations 2012, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, and the Environmental Permitting (England and Wales) Regulations 2016.
- **Regulation (EC) No166/2006 concerning the establishment of an EU Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC.** This regulation establishes an integrated pollutant release and transfer register in the form of a publicly accessible electronic database and lays down rules for its functioning, in order to implement the UNECE Kiev Protocol on Pollutant Release and Transfer Registers. Amendments to retained direct EU legislation have since been made through Commission Implementing Decision 2019/1741 and the EU Exit SIs, most notably Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018, the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 and the Air Quality (Legislative Functions) (Amendment) Regulations 2021.
- **The Sulphur Content in Certain Liquid Fuels Directive (Directive 2016/802).** This Directive is mixed competence. Articles concerning marine fuels are reserved competence (and this policy is owned by the Department for Transport). The land-based elements (Articles 3 and 4) are devolved competence and are transposed by the Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2007, S.I. 2014 No. 1975; the Sulphur Content of Liquid Fuels (Scotland) Regulations SSI 2000 No. 169; the Sulphur Content of Liquid Fuels (Scotland) Regulations SSI 2012 No. 258. The Sulphur Content of Liquid Fuels (Northern Ireland) Regulations 2002 No.

28, The Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2007 No.272, and the Sulphur Content of Liquid Fuels (Amendment) Regulations (Northern Ireland) 2014 No. 147.

- **The Control of Volatile Organic Component emissions resulting from the storage of petrol and its distribution from terminals to service stations (Directive 94/63/EC).** This Directive regulates the operations, installations, vehicles and vessels used for the storage, loading and transport of petrol. Implementation of the Directive is devolved competence and the Directive has been transposed by the Environmental Permitting (England and Wales) Regulations 2016, the Pollution Prevention and Control (Scotland) Regulations 2012, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, and the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012.
- **The Directive on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations (2009/126/EC).** This Directive sets out measures aimed at reducing the amount of petrol vapour emitted to the atmosphere during the refuelling of motor vehicles at service stations. Implementation of the Directive is devolved competence and the Directive has been transposed by the Environmental Permitting (England and Wales) Regulations 2016, the Pollution Prevention and Control (Scotland) Regulations 2012 and the Pollution Prevention and Control (Industrial Emissions) (Amendment) Regulations (Northern Ireland) 2016.

2.2 Relevant International Obligations

Decisions made under this framework will be in line with the UK's international obligations, including:

- UNECE Convention on Long-range Transboundary Air Pollution (CLRTAP) and its Protocols - The UK is a Party to CLRTAP through which legally binding international commitments to reduce five key pollutants by 2020 have been made. The UK is bound by eight CLRTAP Protocols which set out a series of standards to reduce transboundary air pollution, including the Gothenburg Protocol to Abate Acidification, Eutrophication and Ground-level Ozone.
- UNECE PRTR Protocol (under Aarhus Convention) - The UK is a Party to the UN Kiev Protocol on Pollutant Release and Transfer Registers (PRTR) which aims 'to enhance public access to information through the establishment of coherent, nationwide PRTRs'. The Protocol requires Parties to provide information on pollution sources to members of the public. The UK PRTR website and database are important milestones towards the UK Government's implementation of the Kiev Protocol on PRTRs.
- UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ('the Aarhus Convention') - The Aarhus Convention establishes a number of rights for the public in respect of environmental matters, namely:

- a. The right of everyone to receive environmental information held by public authorities in respect of the environment, such as the state of the environment; policies and measures which have been taken; or the state of human health and safety where these can be impacted by the state of the environment. Public authorities must provide the information within 1 month of the request being received
- b. The right to participate in environmental decision-making concerning proposals/projects impacting the environment including any plans or programmes.
- c. The right to review procedures to challenge public decisions.

2.3 Geographic scope of the framework

The Framework will be UK wide.

2.4 Implications

- **Legal implications:** The Scottish Government, Welsh Government and the Northern Ireland Executive previously consented to UK wide Statutory Instruments (SIs) made under the EU Withdrawal Act 2018 in preparation for ‘No-deal’ Exit during 2019. These SIs were approved by both Houses in the UK Parliament, but their commencement date was deferred by the European Union (Withdrawal Agreement) Act 2020 until the end of the Transition Period. Due to the absence of the NI Executive at the time of laying, the SIs were noted without prejudice to the views of a returning NI Executive Ministers. This legislation sets out what the relevant statutory powers and duties are of the Governments within the UK. These SIs were amended to take account of the Withdrawal Agreement. Additional legislation may be required for other Exit scenarios depending on the outcome of negotiations between the UK and EU, and to implement any EU decisions taken between the laying of the Exit SIs and the end of the Transition Period.
- **Northern Ireland Protocol:** The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK’s custom territory, Northern Ireland will remain aligned with the EU. The following paragraphs of Annex 2 and 4 of the Northern Ireland Protocol are relevant to this framework.
- Annex 2 - 26 - Environment, Energy, Efficiency; and (Directive 2004/42/EC): Annex 4 of the Protocol, which concerns the supply of electricity, trading in wholesale electricity or cross-border exchanges in electricity the Protocol lists Directive 2010/75/EU (“the Industrial Emissions Directive”).
 - This Framework reflects the specific circumstances in NI that arise as a result of the Protocol and remains UK wide in its scope. As such decision making and information sharing will always respect the competence of all

Parties to the Framework and in particular the provisions in Article 18 of the Protocol on democratic consent in Northern Ireland.

- Where one or more of UK Government, the Scottish Government or the Welsh Governments propose to change rules in a way that has policy or regulatory implications for the rest of the UK, or where rules in Northern Ireland change in alignment with the EU, the Framework is intended to provide governance structures and consensus-based processes for considering and managing the impact of these changes.
- As rules evolve to meet the emerging regulatory needs of the UK, Scottish and Welsh Governments, this Framework will ensure the full participation of Northern Ireland in discussions such that the views of the relevant Northern Ireland Executive Minister(s) are taken into account in reaching any policy or regulatory decisions by the UK, Scottish or Welsh Governments.
- Where rules in Northern Ireland change in alignment with the EU, the Framework will form the basis of a mechanism to ensure consideration by the four governments of any changes, and will enable them to determine any impacts and subsequent actions arising from these changes.
- Where issues or concerns raised by the relevant Northern Ireland Executive Minister(s) in respect of GB-only proposals have not been satisfactorily addressed, they will have the right to trigger a review of the issue as set out in the dispute resolution process at section 13 of this document.

2.5 Other frameworks

A Common Framework has been developed covering industrial emissions and the setting of the Best Available Techniques (BAT) under the Industrial Emissions Directive (IED). The close relationship of the working areas means reference to each may be helpful in understanding the wider context.

3. Definitions

For the purpose of the Common Framework the below definitions are relevant:

- **Concordat** – This will be an agreement between the Parties that sets out the principles, arrangements and processes that will form the framework.
- **Air Quality Directive** - The European Union’s Directive 2008/50/EC of 21st May 2008, on Ambient Air Quality and Cleaner Air for Europe together with the fourth daughter Directive (2004/107/EC), provide the current framework for the control of ambient concentrations of air pollution in the EU. This Directive was transposed by respective Air Quality Standards Regulations in each nation.
- **UNECE** - The United Nations Economic Commission for Europe is one of the five regional commissions under the jurisdiction of the United Nations Economic and Social Council.

- **OPRED** - Offshore Petroleum Regulator for Environment & Decommissioning.
- **SEPA** - Scottish Environment Protection Agency. SEPA is Scotland's principal environmental regulator.
- **NRW** - Natural Resources Wales – a Welsh Government sponsored body.
- **DAERA** - the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.
- **EA** - The Environment Agency. The EA is an executive non-departmental public body, sponsored by the Department for Environment, Food & Rural Affairs.

Section 2: Proposed breakdown of policy area and framework

4. Summary of proposed approach

4.1 Introduction

Air pollution is a transboundary issue which can cause adverse impacts on human health and the environment. Prior to EU exit, elements of UK air quality legislation were governed by EU law which resulted in the adoption of common standards across the UK. These common standards included the regulation of ambient air quality, sources of emissions and the monitoring and publication of data. The purpose of the UK Air Quality Common Framework is to maintain common standards and to work together to improve air quality and develop our understanding of the sources and impacts in line with our current and future obligations. It is essential that all four Parties to the framework continue to fulfil their monitoring and reporting obligations, which is reliant on data, modelling and tools underpinned by the best available science. There is consensus on the need, for a UK-wide framework to support engagement between the Parties to control transboundary air pollution, ensure future regulatory coherence and enable the functioning of the UK internal market in ways which respect the legislative and executive freedom of each Party to the framework to decide on matters falling within their competence.

Recognising that much of Air Quality policy is a devolved matter, this framework is a statement of intent, and should not be interpreted as a binding arrangement. It does not create legal obligations between the Parties.

4.2 Breadth of the framework

It is proposed that the following areas are covered by this framework and fall within the proposed governance structure.

1. Reporting
 - Industrial reporting
 - National Atmospheric Emissions Inventory (NAEI)
 - National Emission Ceilings Regulations 2018 (NECR)
 - Ambient Air Quality (Air Quality Standards Regulations 2010, which also incorporates the 4th air quality daughter directive (2004/107/EC))
2. Compliance with national and international Air Quality targets with respect to emissions and concentrations of air pollutants:
 - National Air Pollution Control Programmes (NAPCP)
 - National Emission Ceilings Regulations 2018 Inventories and projections

3. International air quality
4. Air Quality monitoring and modelling
5. Product standards

4.2.1 Reporting

Now that the Transition Period has ended, the Parties will continue to collaborate on the reporting of data at a UK level.

The parties must provide timely high-quality data in the correct format as agreed to meet reporting obligations. Coordination activities will include the 'Industrial Reporting sub-group' outlined in the governance section below, and monthly working group meetings with UK regulators (i.e. SEPA, NRW, DAERA, BEIS-OPRED and EA).

- Industrial reporting – Industrial reporting obligations are compiled and finalised by the Scottish Government, Welsh Government and the Northern Ireland Executive and their regulators (i.e., SEPA, NRW, DAERA, BEIS-OPRED and EA). A timeline for industrial reporting is outlined in Annex D. All industrial reporting requirements are finalised through a collaborative approach. Areas of collaboration for the four parties to the framework for preparation of UK reports will include:
 - UK Pollutant Release and Transfer Register
 - UK registry on industrial sites
 - IED Annex II reporting, waste incineration and waste co-incineration plants
 - Sulphur content of liquid fuels (SCLF) reporting
 - B[a]P and Nickel measures reporting
 - Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products reporting
 - Medium Combustion Plant reporting
- National Atmospheric Emissions Inventories (NAEI) – The preparation of a UK NAEI relies on the pollution inventories provided by the Scottish Government, Welsh Government and the Northern Ireland Executive regulators: SEPA, NRW, DAERA and EA. The Parties to this framework commit to continuing to provide the necessary data in an accurate and timely manner.
- National Emission Ceilings Regulations (NECR Reporting) - the Parties to the framework will continue to contribute to the UK level inventories as part of the UK inventory contract, which will highlight the major emissions sources in each of the four parts of the UK. The Parties to the framework are members of the 'Air Quality

Inventory Steering Group' to ensure the UK level inventory continues to use the best available scientific evidence and meets the needs of its stakeholders.

- Ambient Air Quality Reporting - Historically the UK submitted data on ambient air quality to the European Commission through a data repository managed by the European Environment Agency. Following EU exit the Secretary of State, Ministers in the Scottish Government, Welsh Government and the Northern Ireland Executive are required under the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 to make the same data available in their own data repositories.

4.2.2 Compliance with national and international Air Quality targets with respect to emissions and concentrations of air pollutants:

We will continue to work collaboratively on emission reductions to meet our national and international ceilings. This includes delivering future National Air Pollution Control Programmes, required under the National Emission Ceilings Regulations 2018 (NECR) which demonstrate the policies and measures that each Party is implementing or plan to implement in order to reach the UK emission reduction ceilings.

4.2.3 International:

The Common Frameworks Principles agreed at JMC (EN) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the Parties on reserved matters that significantly impact devolved responsibilities in Common Frameworks.

Common Frameworks will allow the parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All Parties to the framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.

International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations Concordat. 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 Inter Governmental Review (IGR), as the basis for such international considerations.

As stated above, international relations are reserved to the UK Government, therefore Defra retains overall policy responsibility for the formulation of international air quality policy. Post EU-Exit, Defra continues to represent the UK at CLRTAP and PRTR meetings. All Parties will be fully involved in the formulation of UK policy in this area and will work collaboratively to seek to agree a UK position in accordance with the Devolution MoU between the Parties. This collaborative approach reflects the fact that the implementation of air quality obligations, for example through new domestic legislation will be a devolved responsibility whilst overall compliance with international agreements will remain the responsibility of the UK Government.

4.2.4 Air Quality monitoring and modelling

Monitoring and modelling

The parties will continue to manage processes to meet monitoring and modelling obligations brought into UK law from EU law, including those required under international conventions including the UNECE Convention on Long Range Transboundary Air Pollution (CLRTAP) and the European Monitoring and Evaluation Programme (EMEP).

The Environment Agency (EA) under contracts funded by Defra implements monitoring requirements and each party is required to support the EA and ensure the UK remains compliant.

- The EA are currently asset owners for approximately 995 individual assets across 537 Air Quality Monitoring Sites on behalf of the Scottish Government, Welsh Government and the Northern Ireland Executive. 454 in England, 13 in Northern Ireland, 39 in Scotland and 30 in Wales (and 1 in Ireland).
- As part of the contract the EA hosts meetings where risks and issues are discussed and decisions taken.

4.2.5 Product standards:

One piece of EU legislation transposed into domestic legislation on Air Quality Product Standards falls within devolved Competence and as such is in scope of this framework. This is:

- The Sulphur Content in Certain Liquid Fuels Directive (Directive 2016/802) as it applies on land (articles 3 and 4).

There is a case for agreeing minimum standards and a process to agree to apply different standards in the future, dependant on specific national requirements.

The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012 comprise reserved matters (with the exception of enforcement responsibilities). However, the UKG, WG, SG and NIE will work closely on reserved matters that impact significantly on devolved responsibilities. These Regulations implement Directive 2004/42/EC on the limitation of emissions of volatile organic compounds (VOCs) due to the use of organic solvents in certain paints and varnishes and vehicle refinishing products. The regulations set out limit values for VOCs which apply to products.

4.3 Scottish Government, Welsh Government and Northern Ireland Executive consent

Where there is a legal requirement for the Secretary of State to secure the consent of the Ministers of the Scottish Government, Welsh Government and the Northern Ireland Executive to make specific regulations (such as specific regulations pertaining to national emission ceilings or specific regulations pertaining to the UK-PRTR), this framework provides the mechanisms for engagement on the consent process. For example, both the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 and the Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019 set out

where the consent of Scottish Government, Welsh Government and Northern Ireland Executive Ministers is required.

4.4 Joint Ministerial Committee (JMC) (EN) Frameworks Principles

The Parties to the framework agree that the approach summarised above is necessary in accordance with Section 1 of the JMC(EN) frameworks principles (see Annex A for the full list of principles) in order to:

- ensure compliance with international obligations, and
- enable the management of common resources

The reason this policy area falls under these principles is that air quality, in the main, is a devolved matter. However, some specific policy areas are reserved, and the UK as a whole is required to meet the emission reduction commitments and reporting requirements set out in national and international legislation.

5. Detailed overview of proposed framework: legislation (primary or secondary)

No primary legislation is deemed necessary for the implementation of this framework.

5.1 Secondary legislation

EU Exit SIs laid to date have been approved by the UK Parliament with consent from the Scottish Government, Welsh Government and the Northern Ireland Executive. These are listed in annex C of this framework. These SIs make corrections to retained EU legislation and address decision making processes for the regimes agreed by all four UK Governments. A further exit SI, the Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) Regulations 2020 (AQ/04) was laid before Parliament on 26th November 2020 and came into force immediately before the end of the Transition Period. This instrument ensures that the UK meets its obligations under the Protocol on Ireland / Northern Ireland in respect of the products covered by the VOCs in Paints Directive and activities that come within the Retained EU law derived from the Industrial Emissions Directive. The Air Quality (Legislative Functions) (Amendment) Regulations 2021 (ENV/27) was made on the 26th May 2021 and came into force on 15th June 2021. This instrument makes amendments to retained direct EU legislation relating to air quality. It was made in order to maintain the effectiveness and continuity of UK industrial reporting of pollution (pollutant release and transfer register, PRTR) legislation that would otherwise be left partially inoperable and unable to function legally after the end of the Transition Period.

6. Detailed overview of proposed framework: non-legislative arrangements

Non-legislative arrangements will consist of an associated concordat between the four Parties covering working arrangements and shared principles.

The parties have agreed that a Concordat will cover the following:

- Introduction: context, purpose and relevant contacts
- Scope
- Principles for working together
- Dispute Avoidance and Resolution Mechanism
- Review and Amendment Mechanism
- International obligations

7. Detailed overview of areas where no further action is thought to be needed

N/A

Section 3: Proposed operational elements of framework

8. Decision making

Decision-making and co-operation

Key joint decisions that will be made through this framework

Once the framework is in operation, the key joint decisions that will or could be taken by the parties to this framework are:

1. Policy decisions for areas in scope of the framework relating to air quality and compliance with legal requirements, although each Party to the framework has the independent ability to decide on matters falling within their legislative and executive competence.
2. Resolution of issues
3. Referring issues to the overarching dispute avoidance and resolution mechanism outlined in the appropriate intergovernmental structures
4. Reviewing and amending the framework.

The Parties recognise that a large volume of operational decisions required within the UK system will be of a technical and scientific nature and will be taken by the relevant regulator. It is accepted that regulators should be able to take a high number of day-to-day decisions based on scientific evidence and previously agreed policy.

The framework will set out how the four Parties to this framework will be clearly and equally sighted on the pipeline of key regulatory decisions required.

This framework acknowledges the statutory and executive freedom of the four parties to the framework to take different decisions for their nations. The Parties recognise that, for the areas in scope of this framework, differences in regulation across the UK (including between GB and NI) will mean that decisions will be taken in various contexts, such as:

- Where those decisions relate solely to matters reserved/devolved (whichever the case may be) to each of the four parties to the framework, such decisions will be made independently by each of the four Parties in accordance with the relevant constitutional law(s)
- Where those decisions concern matters of mutual interest, such decisions will be made jointly while respecting the legislative and executive freedoms where they exist of each of the Parties to the framework.

Financial/Resource Implications

Parties will share information and priorities for evidence needs and available budgets. The scope of sharing evidence budgets between administrations will be agreed through an appropriate governance group.

Decision-making fora

The main forum for official level discussion and decision-making will be the Common Framework Working Group (CFWG).

For the proposed governance structure to operate most effectively, it is envisaged that recommendations for the majority of proposals will be agreed at official level. It is therefore essential that an appropriate evidence base is developed at this level. The development of the evidence base could, if agreed, be carried out through:

- Commissioning further evidence from analysts
- Commissioning further evidence from legal teams
- Seeking advice from external bodies
- Engagement with industry (possibly through consultations, working groups etc.)

Where evidence is being gathered this will, where possible, be shared between Parties.

The mechanism for senior official level discussion and decision-making will be the Air Quality Governance Group (UKAQGG), see information on the governance structure in section 9.

Policy decisions should always be confirmed in writing, whether by the agreed minutes of the meeting, or by written agreement after the meeting. In the case of a disagreement, see Dispute Resolution.

Where agreement is reached, advice is provided to portfolio Ministers in each Government and the decision is implemented by all Parties to the framework.

Disagreements

The Parties to this framework have agreed that if there is a disagreement on a decision, an effort will be made to resolve this issue at the lowest possible level. For example, officials will seek further evidence in order to better inform their discussions. If an issue cannot be resolved at official level, parties will follow the dispute resolution process outlined in section 13 of this document.

Any issues between parties will be recorded as this may help to inform the Review and Amendment process when it is next conducted.

9. Roles and responsibilities of each party to the framework

The following sets out the role and responsibilities for Officials and Ministers of each Party to the Framework:

Officials

Hold regular discussions on the policy covered by frameworks and put advice to Ministers with the rationale for the approach taken within a policy area (for example a UK/GB-wide approach), or why divergent policies may be necessary. Officials across Parties should convene to discuss policy issues as appropriate and to keep colleagues regularly informed of any ramifications that policy will have across the Parties. If officials do not agree when making decisions, issues discussed at a working level can be escalated to senior officials in line with the framework's dispute avoidance and resolution mechanism.

Senior officials

Senior officials (e.g. Deputy Directors and Directors) provide strategic direction on the policy areas governed by frameworks and take key operational decisions. They may review an issue as per a framework's dispute avoidance and resolution mechanism if officials are not able to agree an approach, or if Ministers have rejected advice from officials in the first instance, in another attempt to reach agreement. Senior officials should convene to discuss issues as appropriate, either by regular meeting or on an ad hoc basis.

Ministers

Ministers may receive advice from their officials either concurrently across the Parties as issues arise or in the course of business as usual for individual Parties. Ministers may accept advice or they may reject it. If work is remitted to senior officials and an issue remains unresolved, the issue may be escalated to Ministers. Where Ministers are considering issues as part of the framework's dispute avoidance and resolution mechanism this could be via several media, including inter-ministerial meetings or by correspondence.

Senior Ministers

Terminology distinguishing ministerial hierarchy is not universal across Governments. Where there is a distinction, it is likely that advice presented to a Minister who is not a Senior Minister, will be copied to a Senior Minister who may provide an additional steer if needed. In some circumstances the Senior Minister will also be the most appropriate Minister to make a decision and therefore the distinction between Senior Minister and Minister will not be relevant. In the case of UKG, a Senior Minister would be a Secretary of State (SofS).

Information sharing

In order to enable each party to operate effectively, the Parties will aim to provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties. The Parties recognise timely co-operation is necessary to meet respective policy and business objectives. It is also a collective responsibility to deliver official statistics and

respond to requests from Ministers to required standards. Realistic deadlines should be agreed by all relevant Parties when developing documentation with a joint interest to ensure appropriate time is available to fully consider the content, provide for the clearance process and act with due diligence. Where a document is jointly drafted, all Parties should have access to draft documents at all stages of the process.

Parliamentary and stakeholder communication and engagement

The Parties agree to deliver timely and consistent messages to stakeholders of all Parties by utilising current methods of stakeholder engagement. Policy announcements affecting areas of devolved competence, which will have an impact on other administrations/nations will not be made until the policies being announced have been formally agreed by the Parties concerned.

Planning and preparation

Work programmes and business plans should be agreed and reviewed regularly to ensure all Parties and regulators can manage their resources effectively. Realistic deadlines should be agreed by all relevant parties when reviewing documentation to ensure appropriate time is available to fully consider the content, provide for clearance process and act with due diligence.

Confidentiality

The Parties are responsible for ensuring information that they each may provide is subject to appropriate safeguards and that the confidentiality and sensitivity of such information is respected. Therefore, without prejudice to the requirements of data protection and freedom of information, unpublished information will not be disclosed to third parties without written permission of the party which provided the information, subject to the requirements of the law.

Governance structure

The Governance structure below encompasses both the Air Quality and the Best Available Techniques (BAT) Common Frameworks, as they both share the 'UKAQGG' as a senior level group.

1. Portfolio Ministers and the Inter-Ministerial Group
2. Senior Officials Programme Board
3. UK Air Quality Governance Group (UKAQGG) will serve both:
 - a. Air Quality (AQ) Common Framework, with the following groups:
 - i. Common Framework Working Group (CFWG)
 - ii. AQ Policy Sub-Groups
 - b. BAT Common Framework, with the following groups:
 - i. Standards Council
 - ii. BAT Policy Sub-groups

Due to the ever-changing nature of policy development, the Terms of Reference (ToR) for the groups will be agreed separately and reviewed on a regular basis. The groups will operate within the principles of the Common Framework dispute avoidance and resolution mechanism outlined in this FOA.

AQ subgroups and steering groups

These groups hold discussions on the policy and evidence requirements of returning functions covered by this Framework. These groups inform advice for the Air Quality Common Framework Working Group and where appropriate the Air Quality Governance Group and Ministers on the rationale for the approach taken within a policy area (for example a UK/GB-wide approach), or why divergent policies may be necessary. Officials across the Parties will convene to discuss policy/evidence issues as appropriate and to keep colleagues regularly informed of any ramifications that policy will have across Parties. If such officials do not agree when making decisions, issues discussed at a working level can be escalated to the Common Framework Working Group in line with the framework's dispute avoidance and resolution mechanism.

The sub-groups meet depending on need. The frequency will vary amongst the sub-groups and will be determined by work projects / programmes and individuals in each sub-group and flagged to the Chair.

Although the AQ sub groups and steering groups may evolve over time, the groups agreed to date are:

- Transboundary sub group - The Transboundary sub group aims to ensure that policy development towards meeting the commitments set out by the National Emission Ceilings Regulations 2018 (NECR) and other UK air quality legal obligations, is supported by robust evidence and coherent across the United Kingdom. This group will also act as a platform to strengthen capacity among official scientists and analysts to deliver first class scientific research and evidence for policy making.
- The AQ Inventory Steering group feeds into the Transboundary sub group. The Air Quality Inventory Steering Group (AQISG) acts as a forum to gather expert advice around inventory science, compilation and validation methods, and to strengthen the governance process behind prioritising, approving and implementing changes and improvements to the Air Quality Pollutant Inventory (AQPI) elements of the UK National Atmospheric Emissions Inventory (NAEI).
- Ambient air quality sub group - The Ambient air quality sub group aims to ensure that policy and evidence development meets the requirements under the transposed Ambient Air Quality Directive.
- Industrial reporting sub group - The Industrial reporting sub group provides a forum for UK Government policy officials and regulators overseeing Industrial emissions reporting. The sub group will ensure consistency in decision making processes on industrial reporting data including key outcomes.

Common Framework Working Group (CFWG)

The CFWG holds regular discussions on the policies covered under the framework and puts advice to the UK Air Quality Governance Group, where necessary, on the rationale for the approach taken within policy sub groups (for example a UK/GB-wide approach), or

if necessary, why divergent policies may be necessary. The CFWG will convene to discuss policy issues as appropriate and to keep colleagues regularly informed of any ramifications that policy will have across the Parties. If such officials do not agree when making decisions, issues discussed at a working level can be escalated to the UK Air Quality Governance Group in line with the framework's dispute avoidance and resolution mechanism.

UK Air Quality Governance Group (UKAQGG)

The UKAQGG is a high-level group which encompasses both the Air Quality and the BAT Common Frameworks. Senior officials with appropriate decision-making powers will provide strategic direction on the policy areas governed by frameworks and take key operational decisions when required. They may review an issue as per a framework's dispute avoidance and resolution mechanism if officials are not able to agree an approach, or if Ministers have rejected advice from officials in the first instance, in another attempt to reach agreement. The UKAQGG does not deal with the working & operational aspects of the Common Framework, which is covered by the Common Framework Working group.

UKAQGG Officials Group

Officials from all the Parties will convene ahead of each UKAQGG meeting to plan the agenda and commission relevant inputs. The Secretariat responsibilities of the UKAQGG will be rotated.

Senior Officials Programme Board (SOPB)

The SOPB acts as gatekeeper to the Inter-Ministerial Group. Consisting of Defra and the Devolved Governments senior officials the SOPB performs a sifting/challenge role ahead of a Ministerial level discussion. If no agreement is reached, the dispute is escalated to the IMG.

Portfolio Ministers and the Inter-Ministerial Group

Ministers may receive advice from their officials either concurrently across the Parties as issues arise or in the course of business as usual for individual Parties. Ministers may accept advice or they may reject it. If work is remitted to senior officials and an issue remains unresolved, the issue may be escalated to Ministers. Where Ministers are considering issues as part of the framework's dispute avoidance and resolution mechanism this could be via several media, including inter-ministerial meetings or by correspondence.

Senior Ministers

Terminology distinguishing ministerial hierarchy is not universal across Governments. Where there is a distinction, it is likely that advice presented to a Minister who is not a senior Minister, will be copied to a senior Minister who may provide an additional steer if needed. In some circumstances the senior Minister will also be the most appropriate Minister to make a decision and therefore the distinction between senior Minister and Minister will not be relevant. In the case of UKG, a senior Minister would be a Secretary of State (SofS).

Inter-Ministerial Group

This is expected to be a last resort for only the most serious issues and where all alternatives have been exhausted. See section 13 on dispute resolution for more details.

10. Roles and responsibilities of existing or new bodies

The arrangements between regulators for administering GB wide arrangements, in particular where devolved Government Ministers direct the Environment Agency to administer functions on behalf of devolved regulators, are not set out in detail within this FOA.

The regulators will determine what joint working arrangements are appropriate and shall be involved at the sub-group level of decision making. Regulators may be called upon to contribute if the need arises.

Relevant Bodies

UKG - The Environment Agency (EA) and Local Authorities

NI - Northern Ireland Environment Agency on behalf of DAERA, The Chief Inspector and the District Councils

Scotland - The Scottish Environment Protection Agency (SEPA)

Wales - Natural Resources Wales (NRW)

11. Monitoring and enforcement

Existing monitoring and enforcement practices will be kept under review in the short term following the end of the Transition Period to ensure that existing environmental standards are maintained or exceeded where possible.

The Common Framework Working Group will meet regularly to monitor the framework, where not monitoring in the course of routine business. The purpose of monitoring is to assess:

- Intergovernmental cooperation and collaboration as a result of the framework;
- Whether Parties are implementing and complying with the framework;
- Whether divergence has taken place in contravention of the Common Framework principles; and
- Whether divergence has taken place that impacts on the policy area covered by the Framework.

The outcome of this monitoring will be used to inform joint decision-making going forward and the next review and amendment process. If there is an unresolved disagreement, the dispute avoidance and resolution mechanism should be used.

12. Review and amendment

Process

- The Review and Amendment Mechanism (RAM) ensures the framework can adapt to changing policy and governance environments in the future.
- There are two types of review which are outlined below. The process for agreeing amendments should be identical regardless of the type of review.
- The RAM relies on consensus at each stage of the process from the Ministers responsible for the policy areas covered by the non-legislative agreement.
- Third parties can be used by any party to the framework to provide advice at any stage in the process. These include other government departments or bodies as well as external stakeholders such as NGOs and interest groups.
- At the outset of the review stage, Parties to the framework must agree timelines for the process, including the possible amendment stage.
- If agreement is not reached in either the review or amendment stage, Parties to the framework can raise it as a dispute through the framework's dispute avoidance and resolution mechanism.

Review stage

- A periodic review of the framework will take place every three years, in line with official or ministerial level meetings.
 - The period of three years starts from the publication date of the Framework.
 - During the periodic review, Parties to the framework will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the previous three years need to be reflected in an updated non-legislative agreement.
- An exceptional review of the framework is triggered by a 'significant issue'.
 - A significant issue must be time sensitive and fundamentally impact the operation and/or the scope of the framework.
 - The exceptional review may include a review of governance structures if all parties agree it is required. Otherwise, these issues are handled in the periodic review.

- The same significant issue cannot be discussed within six months of the closing of that issue.
- The amendment stage can only be triggered through unanimous agreement by Ministers. If Parties agree that no amendment is required, the relevant time period begins again for both review types (for example, it will be three years until the next periodic review and at least six months until the same significant issue can trigger an exceptional review).

Amendment stage

- Following agreement that all parties wish to enter the amendment stage, parties will enter into discussion around the exact nature of the amendment. This can either be led by one Party to the framework or all.
- If an amendment is deemed necessary during either type of review, the existing framework will remain in place until a final amendment has been agreed
- All amendments to the framework must be agreed by all Parties and a new non-legislative agreement signed by all Parties.
- If Parties cannot agree whether or how a framework should be amended this may become a disagreement and as such could be raised through the framework's dispute avoidance and resolution mechanism.

13. Dispute resolution

Process

A disagreement between parties of this framework becomes a 'dispute' when it enters the formal dispute avoidance and resolution process set out in the overarching Memorandum of Understanding (MoU) on Devolution that is currently under review.

The goal of this dispute avoidance and resolution mechanism is therefore to avoid escalation to this point, by resolving any disagreements at the lowest possible level.

This mechanism will be utilised only when genuine agreement cannot be reached, and divergence would impact negatively on the ability to meet the Common Frameworks principles. In those areas where a common approach is not needed in order to meet these principles an 'agreement to disagree' could be considered an acceptable resolution.

The diagram below states the levels of escalation of a disagreement to a dispute and the interaction between each level.

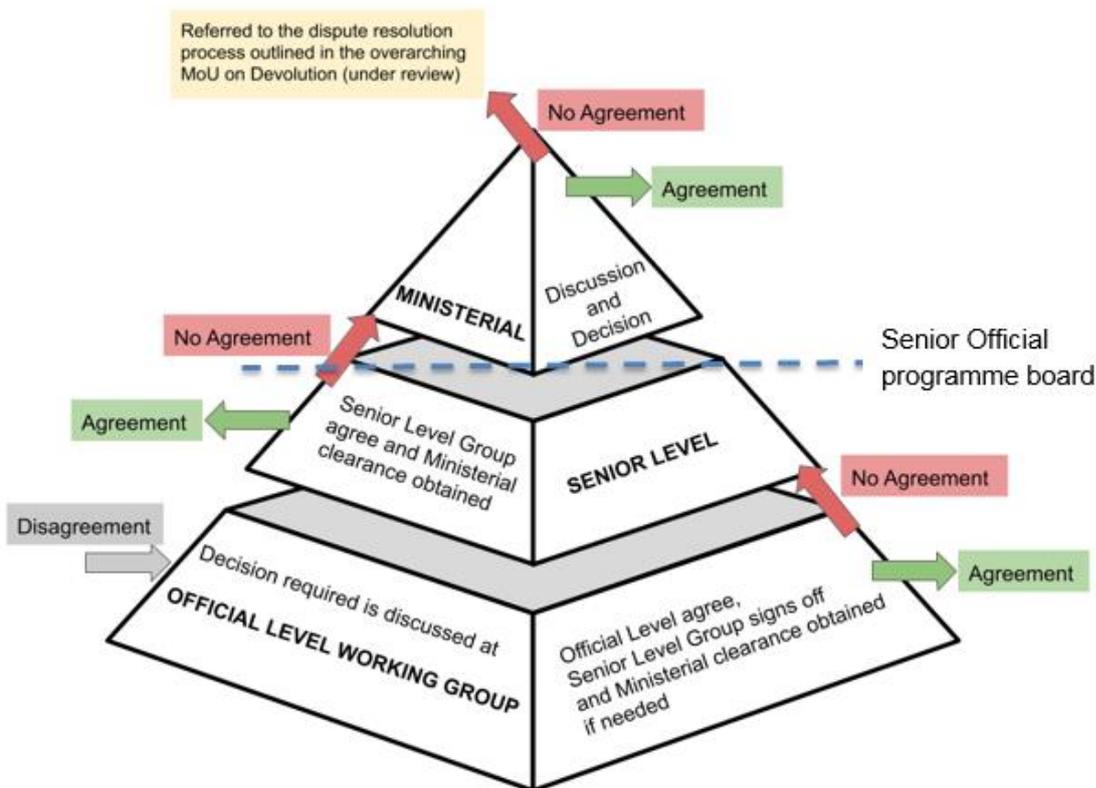


Figure 1 - Flow diagram for dispute resolution for the Air Quality Common Framework

- The official level working group discuss the disagreement. If this results in the disagreement being resolved at official level, the senior level group signs off the agreement. Ministerial clearance will be obtained if needed.
- If agreement is not reached, the issue will be escalated to the senior level group. Ministerial clearance will be obtained if this group reaches agreement.
- If there is still no agreement, the issue will be referred to ministers for discussion and decision. If an agreement can still not be found, then the dispute will be referred to the dispute resolution process in the overarching MoU on Devolution, which is under review.

Official level - Common Framework Working Group (CFWG)

Attempts will be made to resolve all disputes at the earliest possible stage using existing fora and the 'Common Framework Working Group' – consisting of policy officials from all four Parties. This will usually be resolved via discussion to determine the source of the disagreement, to establish whether it is a material concern and to work through possible solutions to the satisfaction of all Parties. It is expected that most disagreements would be resolved at this point. If not resolved at this level, the Working Group will escalate the issue to Senior Officials.

UKAQGG Officials group

Officials from all four Parties will convene ahead of each UKAQGG meeting to plan the agenda and commission relevant inputs.

Senior Level – UK Air Quality Governance Group (UKAQGG)

Senior Officials from all four Parties will consider the disagreement and will perform a sifting/challenge role ahead of a Ministerial level discussion

Senior Official Programme Board

Following that, any disputes will be brought to the ‘Senior Official Programme Board meeting’, where discussion will take place which will result in the issue either being pushed back to policy leads or escalated further to the Ministerial Group.

Ministerial Group (IMG)

This is expected to be a last resort for only the most serious issues and where all alternatives have been exhausted. Ministers consider the dispute. In the unlikely case of no agreement reached by Ministers, the dispute will return back to policy official level and further evidence/ external expertise can be sought. The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Common Framework.

N.B a disagreement may be resolved at any stage of the dispute resolution process. Additionally, a dispute may be resolved at the working group level or senior official level by bilateral or multilateral correspondence/discussion between the parties involved in the dispute.

Timescales for escalation

When a proposal is raised at official level, consideration will be given to the urgency of the proposal (i.e. how quickly a decision is required). This assessment will guide timescales for escalation of disagreement within the governance structure, with decisions requiring a more immediate resolution being escalated more quickly.

Evidence gathering

At each stage further evidence may be requested from the preceding forum before the disagreement is discussed.

Third parties

The Parties to the framework may seek information from third parties in order to inform decision making, but third parties and stakeholders will not have an active role in the decision-making process.

Common Framework: Air Quality Concordat

1. Introduction

- 1.1 This Concordat is an agreement between the UK Government (UKG), Scottish Government (SG), Welsh Government (WG), and the Department of Agriculture, Environment and Rural Affairs (DAERA), a department within the Northern Ireland Executive, henceforth referred to as “the Parties”.
- 1.2 This Concordat provides the non-legislative mechanism to underpin an Air Quality Common Framework and sets out the principles of engagement which all parties will respect and work to.
- 1.3 The purpose of this Concordat is to provide a framework for UK collaboration, coordination and cooperation on air quality. Our continued aim for air quality policy and regulation is to reduce harmful emissions and concentrations of air pollutants that can damage human health and the environment, including in relation to national emission ceilings and ambient air quality. This includes regulations which implement international commitments under the United Nations Economic Commission for Europe (UNECE) Convention on Long-range Transboundary Air Pollution (CLRTAP) and Kiev Protocol to the UNECE Aarhus Convention.
- 1.4 The Air Quality Framework within this Concordat (hereafter referred to as the “Framework”) has been produced to support the effective regulation and administration of air quality across the UK following the UK’s departure from the European Union (EU).
- 1.5 The Framework is intended to facilitate multilateral policy development, where appropriate, taking account of associated commitments of the Parties.
- 1.6 The Framework does not prejudice the views of the respective Parties nor the arrangements they are required to put in place under the terms of the Trade and Cooperation Agreement.
- 1.7 This Concordat aims to ensure the effective functioning of the Framework. The arrangements herein will respect devolution settlements, established constitutional conventions and practices, and the overarching Memorandum of Understanding (MoU) on Devolution.¹
- 1.8 Responsibility for delivery of arrangements as set out in this Concordat agreement is delegated to the:

¹ Devolution: memorandum of understanding and supplementary agreements”, October 2013, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/316157/MoU_between_the_UK_and_the_Devolved_Administrations.pdf

- Scottish Government
 - Welsh Government
 - Department of Agriculture, Environment and Rural Affairs (DAERA)
- 1.9 The Framework establishes an agreed approach for co-operation between the parties. It operates in accordance with the principles outlined in the overarching intergovernmental Devolution: Memorandum of Understanding and is consistent with, and complemented by, other guidance on common working arrangements, notably the principles described in the Joint Ministerial Committee's (European Negotiations) communique of 16 October 2017.
- 1.10 The Parties agree that this Framework is prepared in response to the UK's exit from the EU and establishes governance arrangements surrounding EU returning powers.
- 1.11 The Parties agree that the scope of this Concordat may not be limited to those regulations covered at the time of inception. The scope of the Concordat can be extended if all parties consent.
- 1.12 The Parties agree that the Framework addresses areas governed by EU law until 31 December 2020. The Parties acknowledge there are separate and distinct devolution settlements across the UK, which means there is a complex mixture of reserved and devolved competences relating to air quality policy and regulation. There are many areas of overlap between devolved and reserved areas, meaning a decision taken in a purely devolved area may have a significant consequence in a reserved policy area, and vice versa.
- 1.13 The Parties agree that although reserved functions are not strictly within the scope of the Framework, they will use the fora set out in the Framework to have discussions between the Parties, on those returning powers falling within either devolved or reserved competence, in accordance with principles set out in the 2012 Devolution MoU. The discussions will be without prejudice to the competence of the Parties or, as the case may be, the competence of the devolved governments.
- 1.14 The outcomes of the intergovernmental relations review are in the process of being implemented. Once confirmation has been provided from each government, the outcomes of the review and appropriate intergovernmental structures will be reflected in this Concordat.

2. Scope

- 2.1 All Parties to this Concordat agree to the need for a framework to support engagement between parties to control transboundary air pollution and ensure future regulatory coherence.
- 2.2 The scope of this Concordat relates to all matters for which the parties have equivalent air quality legislation or delivery responsibilities within their respective

geographical areas of jurisdiction. The scope of this Concordat is confined to those retained EU laws within scope of the corresponding framework.

- 2.3 This Framework recognises air pollution is a transboundary issue which can cause adverse impacts on human health and the environment. Prior to EU exit, elements of UK air quality legislation were governed by EU law which provided common approaches across the UK. These common approaches included the regulation of ambient air quality, control of pollutant emissions and the monitoring and publication of data. The purpose of the Framework is to support joined up action where required to maintain or enhance these approaches. Approaches taken will respect the statutory and executive freedom of each of the Parties to the Framework. The Parties will work together through the Framework to develop and share understanding of sources and impacts of air pollution in line with current and future obligations. All Parties will fulfil their monitoring and reporting obligations, which are reliant on data, modelling and tools underpinned by the best available science.

3. Principles for working together in relation to retained EU air quality law

- 3.1 The Parties affirm their mutual commitment to work together on the application of retained EU law in relation to air quality policy and their respective responsibilities. This co-operation is intended to give all parties the assurance that working relationships will be conducted in a manner that is both collaborative and helpful, aiming, where possible and appropriate, to achieve agreement on policy. In addition, all Parties agree that regular contact is necessary to discuss business of mutual interest through close liaison at official and Ministerial level.
- 3.2 This Concordat provides the basis for the management and maintenance of common approaches where necessary or appropriate, information sharing, governance arrangements and a dispute resolution process.
- 3.3 All Parties to the Concordat agree that a common framework approach is highly desirable across the UK.
- 3.4 Through framework mechanisms, common recommendations may be made to Ministers. Ministers from all Parties retain the right to take individual decisions for their Government. For those areas within the scope of the Framework the opportunity for consistency of approach across Parties will be sought where necessary or appropriate. The ability for divergence and respect for the respective devolution settlements within the UK must be retained, while taking account of the need for cooperation and collaboration in those areas of joint interest and the functioning of the UK internal market. Every effort will be made at working level to resolve any disagreements in difference of approach. Where a consensus cannot be reached by these arrangements (whether that is agreement to a UK wide approach or to a divergent approach) the dispute resolution process set out in the Framework may be used .

4. Collaboration

- 4.1 In order to enable each party to operate effectively, the Parties should provide relevant scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties. The Parties will ensure timely co-operation and planning, which is necessary to meet respective policy and business objectives.
- 4.2 The Parties recognise co-operation is necessary to meet joint policy, public health and environmental objectives. All Parties will take collective responsibility for delivering official statistics and respond to requests from Ministers to required standards. Realistic deadlines should be agreed by all relevant parties when developing documentation with a joint interest to ensure appropriate time is available to fully consider the content, provide for clearance process and act with due diligence. Where a document is jointly drafted, all parties should have access to draft documents at all stages of the process.
- 4.3 Engagement between Parties may be subject to restrictions or requirements, such as those relating to confidentiality and those captured in legislation.
- 4.4 The Parties recognise work programmes and business plans should be developed and agreed, where appropriate, to manage requirements within the Framework. These must be reviewed regularly to ensure all Parties and regulators can manage their resources effectively. Realistic deadlines should be agreed by all relevant parties when reviewing documentation to ensure appropriate time is available to fully consider the content, provide for clearance process and act with due diligence. Documentation for recording proceedings and key decisions of meetings should be arranged where appropriate.

5. Consent for the Secretary of State to make certain regulations

- 5.1 All Parties to the Concordat agree that the approach summarised below is necessary in accordance with Section 1 of the Joint Ministerial Committee (EU Negotiations) JMC(EN) Frameworks Principles (Annex A). Where there is a legal requirement for the Secretary of State to secure the consent of the Ministers of the Scottish Government, Welsh Government and the Northern Ireland Executive to make specific regulations (such as specific regulations pertaining to national emission ceilings or specific regulations pertaining to the UK Pollutant Release and Transfer Register (UK-PRTR), this Framework provides the mechanisms for engagement on the consent process. For example, both the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 and the Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019 set out where the consent of the Scottish Government, Welsh Government and the Northern Ireland Executive Ministers is required.

6. Framework purpose

- 6.1 The Framework sets out procedures that will be followed by the Parties to deliver policies and air quality legislation and management.

- 6.2 The Parties agree on the need to develop, where necessary or appropriate, common purpose and priority setting for policy across the UK to which the policies and strategies of each Party will contribute in line with approval from Ministers of the Parties.
- 6.3 The Framework will help to provide stakeholders with as much certainty and continuity as possible, recognising the value of regulatory coherence, where considered necessary or appropriate by Ministers, in avoiding the creation of unnecessary regulatory burdens.

7. High-level principles

- 7.1 The Parties agree to adhere to the following high-level principles:
- 7.2 The Parties will ensure accountability of the principles of the relevant Parties in developing or implementing joined up policy or legislation. Each Party will have to give regard to legislative requirements set by its own government while implementing joined up policy. Respect will be paid to the devolution settlements of all Parties and to the democratic accountability of the Scottish Government, Welsh Government and the Northern Ireland Executive, including the provisions of the Belfast Agreement, with the inclusion of the North/South dimension highlighted in Strand 2 of that Agreement. Current devolution agreements will be preserved and enhanced; those areas that are currently reserved will continue to be so.
- All Parties agree to share relevant information and scientific research in the spirit of openness, transparency and collective objectives.
 - All Parties agree to respect the dispute resolution process and that it should be utilised only when agreement cannot be reached at an operational or policy level.

This Concordat sets out general provisions in relation to the policy as described above. It is not intended to constitute a legally enforceable contract or create any rights or obligations which are legally enforceable.

8. Trade and Cooperation Agreement

- 8.1 The policy area covered by this Common Framework intersects with the EU-UK Trade and Cooperation Agreement and therefore topics relevant to the Framework may be considered from time to time by relevant TCA Specialised Committees or the Partnership Council. Where a UK-EU meeting agenda includes an item concerning implementation in an area of devolved competence, UK Government should facilitate the attendance of the Scottish Government, Welsh Government and Northern Ireland Executive of a similar level to that of the UK Government representatives with final discretion as to the UK delegation a matter for the UK co-chair. UK Government should engage the Scottish Government, Welsh Government and Northern Ireland Executive as fully as possible in preparation for these meetings regardless of attendance, and on all relevant implementation matters.

9. Stakeholder engagement and communications

- 9.1 The Parties agree to deliver timely and consistent messages to stakeholders by utilising the most appropriate communications tools and tailored to the appropriate audience. All Parties agree to share timely details of policy announcements or relevant information which may or will have an impact, including resource consequences, on other nations or their Parties. Principles underpinning good communications between all four parties are outlined in paragraphs 4 to 6 of the Devolution: Memorandum of Understanding (currently under review). Open communications will be maintained, and information shared, to the extent permitted by law, at the earliest opportunity. This may include but is not confined to policy issues; stakeholder views; preparations for and outcome of consultations and research; media interest and lines to take; emerging issues and intelligence.
- 9.2 In the interests of good communication and for the avoidance of surprises, the parties shall keep each other informed of any new policy proposals, before they are made public (at the earliest opportunity), to allow full consideration and a common approach to be reached where possible or desirable. "Policy proposals" include proposals for both primary and secondary legislation and for major non-statutory measures. Each Party will also appraise the others of the ongoing development of such proposals. Where pressure of events prevents this, each Party will inform the others as soon as possible.
- 9.3 The Parties will notify and consult each other on any proposals to change what is currently UK legislation in good time before they are made public. Where pressure of events prevents this, each party will inform the others as soon as possible.
- 9.4 All Parties agree to maintain the confidentiality of discussions and of any information shared among parties as far as is possible having regard to any legal duties on any party to disclose (paragraph 12 on confidentiality of the Devolution Memorandum of Understanding refers).
- 9.5 Where information is not governed by a legal duty to disclose, all Parties must agree before confidential information received by one or more Party to this Concordat is disclosed to anyone else.
- 9.6 Where there is a legal duty to disclose, each Party to this Concordat will advise the others of its intentions and consider any legal argument by the one or more other Parties challenging the duty to disclose all or part of the information under consideration.
- 9.7 These arrangements will rely for their effectiveness on mutual respect for the confidentiality of discussions and information exchanged.
- 9.8 The sharing of information relating to policy formulation will be undertaken with a view to reaching agreement between the Parties. Most issues will be capable of being dealt with multilaterally between the Parties or through correspondence.
- 9.9 The Parties acknowledge that there may be a need for their separate responsibilities to be tackled with uniformity. For example, events could transpire that would require urgent action. Each Party shall consider promptly and

thoroughly any concerns raised by the others. Where all agree that consistency is needed, consultation on a common approach shall be undertaken.

- 9.10 To avoid causing confusion or attempts by businesses to make individual arrangements with the Parties, industry will be made fully aware via stakeholder engagement and relevant policy guidance, of the collective agreement processes set out in this Concordat.

10. Governance

- 10.1 Following the approach set out in the Framework Outline Agreement (FOA) and within the spirit of this Concordat, the Parties will seek every opportunity to take joint decisions at official level, through discussions at the relevant Policy sub-group and through the AQ Common Framework Group. Once the Concordat is in operation, the key joint decisions that will or could be taken by the Parties to this Concordat are:
- Policy decisions for areas in scope of the Framework relating to air quality and compliance with legal requirements, although it is acknowledged that each Party to the Framework has the independent ability to decide on matters falling within their legislative and executive competence
 - Resolution of issues
 - Referring issues to the overarching dispute resolution mechanism outlined in the inter-governmental MoU on Devolution
 - Reviewing and amending the Framework
- 10.2 The Parties to the Framework recognise that a large volume of operational decisions required within the UK system will be of a technical and scientific nature and will be taken by the relevant regulator. It is accepted that regulators should be able to take a high number of day-to-day decisions based on scientific evidence and previously agreed policy.
- 10.3 The Framework sets out how the Parties will be clearly and equally sighted on the pipeline of key regulatory decisions required.
- 10.4 Where those decisions concern matters of mutual interest, such decisions will be made jointly while respecting the legislative and executive freedoms, where they exist, of each of the Parties to the Framework.

11. Dispute resolution

- 11.1 Following the approach set out in the Air Quality Common Framework and within the spirit of this Concordat, the Parties will seek every opportunity to resolve differences and reach agreement at official level, through discussions at the

relevant Policy sub-group and through the Air Quality Common Framework Working Group (CFWG).

- 11.2 Alternative views are acceptable if they do not have a detrimental effect on the regulation and management of air quality. In this context, alternative views are where Parties take differing views or interpretations of a particular issue. This view could be an acceptable difference in opinion/interpretation, unless it causes disruption that requires further dialogue to determine if agreement can be reached through compromise or other means.
- 11.3 Alternative views will become a disagreement and will trigger the dispute resolution procedure when it cannot be resolved by further dialogue at that level. Or the Parties agree that a common interpretation (or common opinion) cannot be found, and the resultant impact negatively affects the ability to meet the common framework principles in Annex A.
- 11.4 The Parties recognise they may have alternative views at any level and those alternative views may be resolved without being elevated to instigate the dispute resolution procedure. For example, a clarification provided by an exchange of letters between Parties may resolve a concern/ potential issue.
- 11.5 The dispute resolution process should be utilised only when agreement cannot be reached. In some areas commonality will not be needed in order to meet the JMC(EN) principles and therefore an “agreement to disagree” would be acceptable.
- 11.6 Where it has not been possible to resolve any disagreement in approach at official level, this will initially be referred to senior officials via the UK Air Quality Governance Group (UKAQGG).
- 11.7 Any continuing disagreement, which cannot be resolved at official level in the ways set out above, will be referred to Portfolio Ministers/EFRA-IMG for resolution as set out in the Air Quality Common Framework. The making of legislation may need to be postponed until all Parties are in agreement on how to proceed.
- 11.8 As a last resort, where the above steps for resolving a disagreement have been unsuccessful, the issue will be escalated to the appropriate intergovernmental structures for resolution.

12. Provision of information and policy formulation

- 12.1 All Parties will be involved as appropriate in discussions regarding policy positions relating to air quality. All Parties will also provide information to the other Parties on any contacts from other countries which concern air quality.

13. International policy and relations

- 13.1 As international policy issues are reserved to the UK government, Defra retains overall policy responsibility for the formulation of international air quality policy, and will continue to represent the UK at International meetings.
- 13.2 All Parties to the Concordat and Framework will be involved in the formulation of UK policy in this area and will work collaboratively in accordance with the Devolution MoU between the Parties. This collaborative approach reflects the fact that the implementation of Air Quality obligations, for example, through new domestic legislation will be a devolved responsibility whilst overall compliance with international agreements will remain the responsibility of the UK Government.
- 13.3 The Common Frameworks Principles agreed at JMC (EN) state that frameworks will be established where necessary to ensure the UK can negotiate, enter into and implement new trade agreements and international treaties, and ensure compliance with international obligations. These principles were established in the context of an ambition for close working between the Parties on reserved matters that significantly impact devolved responsibilities in Common Frameworks.
- 13.4 Common Frameworks will allow the parties, in a timely manner, to ascertain the impact of international trade on managing UK policy divergence. All parties to the framework will consider any impact in a way that meets the requirements of the JMC (EN) principles. Common Frameworks will afford an opportunity to consider any implications stemming from international trade which have a direct bearing on the operation of a Common Framework. The scope of this consideration will not extend beyond Common Frameworks.
- 13.5 International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations Concordat. International obligations will be implemented in line with these agreements. In this respect, the parties will automatically use any updated IR Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations.
- 13.6 The Scottish Government, Welsh Government and the Northern Ireland Executive are responsible for observing and implementing international obligations that relate to devolved matters as outlined in the Devolution MoU. All parties will consult with and then inform each other of their chosen methods of implementation, for example by exchanging draft copies of administrative rules or legislation. The parties also agree to such mutual exchanges of information, to the extent permitted by law, as are required to assist the good management of schemes and the observance of obligations.

14. Exchange of information, statistics and research

- 14.1 The Parties will aim to provide each other with as full and open as possible access to scientific, technical and policy information including statistics and research and, where appropriate, representations from third parties. In order to enable each Party to operate effectively in meeting any international obligations, as set out in the preceding section, and in relation to the policy areas covered by the Air Quality

Common Framework, all parties to this concordat will co-operate in line with the appropriate intergovernmental structures.

15. Operation and review

- 15.1 This Concordat will be formally reviewed at six months, one year, and three years from the date of its implementation and thereafter at five-year intervals.
- 15.2 It will also be reviewed if any of the Parties requests it, and all Parties will participate in the review.
- 15.3 Any changes made to the Concordat must be agreed by all parties to it.

16. Data protection and confidentiality

- 16.1 All Parties are responsible for ensuring information that they each may provide is subject to appropriate safeguards and that the confidentiality and sensitivity of such information is respected. Therefore, without prejudice to the requirements of data protection and freedom of information, unpublished information will not be disclosed to third parties without written permission of the Party which provided the information, subject to the requirements of the law
- 16.2 A Party to this Framework may receive a request for information from a member of the public or any other person under the Data Protection legislation (EU General Data Protection Regulation 2016/679 (GDPR) and the Data Protection Act 2018 (DPA)), Environmental Information Regulations 2004 (EIRs), the Freedom of Information Act 2000 (FOIA) or other legislation.
- 16.3 If a Party receives a request for information that has been supplied by another party (“the information supplier”), the Party that has received the request for information will consult the information supplier as early as possible and before any information is disclosed in response to the request to enable sufficient time for the views of the information supplier, including any objections to disclosure, to be taken into account when determining whether the information is to be disclosed or withheld.
- 16.4 If a Party receives a request for information that it holds and knows or believes the information is held by another Party or Parties, the Party that received the request will consult the other Party or Parties as early as possible and before any information is disclosed in response to the request. The purpose of this consultation is to ensure that all parties that received the request are able to share
- 16.5 Any concerns about information that might be disclosed to the requester, that parties holding the information are able to take those concerns fully into account in their decision-making, and that parties can co-ordinate their handling of requests.

- 16.6 If a Party decides to voluntarily disclose or publish information received from another Party, it must obtain the written consent of the information supplier before disclosure occurs.

17. Review and amendment mechanism

17.1 Review Stage

- 17.1.1 The Review and Amendment Mechanism (RAM) ensures the Framework can adapt to changing policy and governance environments in the future.
- 17.1.2 The RAM relies on consensus at each stage of the process from the Ministers responsible for the policy areas covered by the non-legislative agreement.
- 17.1.3 Third parties can be used by any Party to the Framework to provide advice at any stage in the process. These include other government departments or bodies as well as external stakeholders such as NGOs and interest groups.
- 17.1.4 At the outset of the review stage, Parties to the Framework must agree timelines for the process, including the possible amendment stage.
- 17.1.5 If agreement is not reached in either the review or amendment stage, Parties to the Framework can raise it as a dispute through the Framework's dispute avoidance and resolution mechanism.
- 17.1.6 A review of the Framework will take place every three years from the date of its implementation.
- 17.1.7 During the periodic review, Parties to the Framework will discuss whether the governance and operational aspects of the Framework are working effectively, and whether decisions made over the previous year need to be reflected in an updated non-legislative agreement.
- 17.1.8 An exceptional review of the Framework is triggered by a 'significant issue'. A significant issue must be time sensitive and fundamentally impact the operation and/or the scope of the Framework.
- 17.1.9 The exceptional review may include a review of governance structures if all Parties agree it is required. Otherwise, these issues are handled in the periodic review. The same significant issue cannot be discussed within six months of the closing of that issue.

18. Amendment stage

- 18.1.1 The amendment stage can only be triggered through unanimous agreement by Ministers. Following agreement that all Parties wish to enter the amendment stage,

Parties will enter into discussion around the exact nature of the amendment. This can either be led by one Party to the Framework or all.

18.1.2 If an amendment is deemed necessary during either type of review, the existing Framework will remain in place until a final amendment has been agreed.

18.1.3 All amendments to the Framework must be agreed by all Parties and a new non-legislative agreement signed by all parties.

18.1.4 If Parties cannot agree whether or how a framework should be amended this may become a disagreement and as such could be raised through the Framework's dispute avoidance and resolution mechanism.

19. Entry into effect

19.1 If a Party decides to voluntarily disclose or publish information received from another Party, it must obtain the written consent of the information supplier before disclosure occurs.

20. Signatories to the AQ Common Framework:

For the **Department for Environment, Food and Rural Affairs (Defra)**:

Name:

Position:

Signature:

Date:

For the **Scottish Government**:

Name:

Position:

Signature:

Date:

For the **Welsh Government**:

Name:

Position:

Signature:

Date:

For the **Department of Agriculture, Environment and Rural Affairs (DAERA)**:

Name:

Position:

Signature:

Date:

ANNEXES

ANNEX A – JMC principles on common frameworks

The principles on the establishment of common frameworks ('the principles') agreed by the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) in October 2017

1. Common frameworks will be established where they are necessary in order to:
 - enable the functioning of the UK internal market, while acknowledging policy divergence;
 - ensure compliance with international obligations;
 - ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;
 - enable the management of common resources;
 - administer and provide access to justice in cases with a cross-border element;
 - safeguard the security of the UK.

2. Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:
 - be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;
 - maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each nation as is afforded by current EU rules;
 - lead to a significant increase in decision-making powers for the devolved administrations.

3. Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

ANNEX B - UK's obligations under international conventions

UNECE Convention on Long-range Transboundary Air Pollution (CLRTAP) and its Protocols

The UK is a party to CLRTAP through which we have made legally binding international commitments to reduce five key pollutants by 2020. The UK is bound by eight CLRTAP Protocols which set out a series of standards to reduce transboundary air pollution.

As international policy issues are reserved to the UK government, Defra retains overall policy responsibility for the formulation of international Air Quality policy. Following EU-Exit, Defra continues to represent the UK at CLRTAP as it did previously.

UNECE PRTR Protocol (under Aarhus Convention)

The UK is a party to the UN Kiev Protocol on Pollutant Release and Transfer Registers (PRTR) which aims 'to enhance public access to information through the establishment of coherent, nationwide PRTRs'. The Protocol requires parties to provide information on pollution sources to members of the public. The UK PRTR website and database are important milestones towards the UK Government's implementation of the Kiev Protocol on PRTRs.

As international policy issues are reserved to the UK government, Defra retains overall policy responsibility for the formulation of international Air Quality policy. Following EU Exit, Defra will continue to represent the UK at PRTR meetings as it did previously.

Aarhus Convention

UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ('the Aarhus Convention') The Aarhus Convention establishes a number of rights for the public in respect of environmental matters, namely:

- The right of everyone to receive environmental information held by public authorities in respect of the environment, such as the state of the environment; policies and measures which have been taken; or
- The state of human health and safety where these can be impacted by the state of the environment. Public authorities must provide the information within 1 month of the request being received;
- The right to participate in environmental decision-making concerning proposals/projects impacting the environment including any plans or programmes;
- The right to review procedures to challenge public decisions.

ANNEX C – Regulations within scope

EU regulations in scope

The elements of retained EU law which intersect with those returning powers falling within scope of this agreement are listed below. These elements of retained EU law are anticipated to remain the same for the foreseeable environment in which the Air Quality Common Framework will operate.

- **The Ambient Air Quality Directive (2008/50/EC) and Fourth Daughter Directive (2004/107/EC).** These Directives set standards, including statutory limit values, for the concentration of pollutants in ambient air. They also define monitoring and reporting obligations. In the UK, responsibility for meeting air quality limit values is devolved to the national administrations in Scotland, Wales and Northern Ireland. The Secretary of State for Environment, Food and Rural Affairs has responsibility for meeting the limit values in England through the Air Quality Standards Regulations 2010 and the Department for Environment, Food and Rural Affairs (Defra) co-ordinates assessment for the UK as a whole. This is implemented through equivalent statutory instruments in each of the devolved administrations.
- **National Emission Ceilings Directive (2016/2284/EC).** This Directive sets UK-wide emission reduction commitments for five damaging air pollutants, as well as obligations for the quantification and reporting of air pollutant emissions. Both the original (2001/81/EC) and revised National Emission Ceilings Directive implements international commitments under the amended Gothenburg Protocol to the UNECE Convention on Long-range Transboundary Air Pollution. Emission ceilings and associated reporting obligations including publication of National Air Pollution Control Programmes are set at the UK-level in the National Emission Ceilings Regulations 2018, however, devolved administrations will take action to proportionally contribute to meeting the ceilings as appropriate in areas of devolved competence. Amendments to retained direct EU legislation have since been made through the EU Exit statutory instruments, most notably The Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019.
- **The Industrial Emissions Directive (2010/75/EU) (including linkages to Commission Implementing Decision EU 2018/1135).** This Directive is the main EU instrument regulating pollutant emissions from industrial installations. It requires member states to control and reduce the impact of industrial emissions on the environment. The Directive aims to lower emissions through an integrated approach including through the application of Best Available Techniques (which is subject to a separate common framework agreement) and some common standards for certain sectors. Implementation of the Directive is within devolved competence and has been transposed by the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, the Environmental Permitting (England and Wales) Regulations 2016 and the Pollution Prevention and Control (Scotland) Regulations 2012.
- **The Medium Combustion Plants Directive (2015/2193).** This Directive regulates pollutant emissions from the combustion of fuels in plants with a rated thermal input equal to or greater than 1 Megawatt thermal and less than 50 Megawatt thermal.

Implementation of the Directive is devolved competence and has been transposed by the Pollution Prevention and Control (Scotland) Regulations 2012, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, and the Environmental Permitting (England and Wales) Regulations 2016.

- **Regulation (EC) No166/2006 concerning the establishment of a EU Pollutant Release and Transfer Register** and amending Council Directives 91/689/EEC and 96/61/EC. This regulation establishes an integrated pollutant release and transfer register in the form of a publicly accessible electronic database and lays down rules for its functioning, in order to implement the UNECE Kiev Protocol on Pollutant Release and Transfer Registers. Amendments to retained direct EU legislation have since been made through Commission Implementing Decision 2019/1741 and the EU Exit SI's, most notably Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018, the Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019 and the Air Quality (Legislative Functions) (Amendment) Regulations 2021.
- **The Sulphur Content in Certain Liquid Fuels Directive (Directive 2016/802)**. This Directive is mixed competence. Articles concerning marine fuels are reserved competence (and this policy is owned by the Department for Transport). The land based elements (Articles 3 and 4) are devolved competence and are transposed by the Sulphur Content of Liquid Fuels (England and Wales) (Amendment) Regulations 2007, S.I. 2014 No. 1975; the Sulphur Content of Liquid Fuels (Scotland) Regulations SSI 2000 No. 169; the Sulphur Content of Liquid Fuels (Scotland) Regulations SSI 2012 No. 258. The Sulphur Content of Liquid Fuels (Northern Ireland) Regulations 2002 No. 28, The Sulphur Content of Liquid Fuels Regulations (Northern Ireland) 2007 No.272, and the Sulphur Content of Liquid Fuels (Amendment) Regulations (Northern Ireland) 2014 No. 147.
- **The Control of Volatile Organic Component emissions resulting from the storage of petrol and its distribution from terminals to service stations (Directive 94/63/EC)**. This Directive regulates the operations, installations, vehicles and vessels used for the storage, loading and transport of petrol. Implementation of the Directive is devolved competence and the Directive has been transposed by the Environmental Permitting (England and Wales) Regulations 2016, the Pollution Prevention and Control (Scotland) Regulations 2012, the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013, and the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012.
- **The Directive on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations (2009/126/EC)**. This Directive sets out measures aimed at reducing the amount of petrol vapour emitted to the atmosphere during the refuelling of motor vehicles at service stations. Implementation of the Directive is devolved competence and the Directive has been transposed by the Environmental Permitting (England and Wales) Regulations 2016, the Pollution Prevention and Control (Scotland) Regulations 2012 and the Pollution Prevention and Control (Industrial Emissions) (Amendment) Regulations (Northern Ireland) 2016.

EU Exit Statutory Instruments (SIs)

EU Exit SIs made under the EU Withdrawal Act (using the power in section 8 of the EUWA 2018) made corrections to statutory instruments to ensure that air quality legislation law could continue to operate correctly after EU Exit. This allows us to address any failures of retained EU law to operate effectively or to address other deficiencies arising from the withdrawal of the United Kingdom from the EU.

- **AQ 01: The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018.** This instrument amends retained direct EU legislation (including Regulation (EC) No 166/2006, the European Pollutant Release and Transfer Register (E-PRTR)) relating to air quality, to ensure that it continues to operate effectively following withdrawal of the United Kingdom from the European Union (EU). This includes addressing deficiencies, such as references to EU authorities (for example the Commission) being replaced with domestic equivalents (for example Secretary of State).
- **AQ02: The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019.** This instrument amends the Air Quality Standards Regulations 2010 (S.I. 2010/1001), which transpose the requirements of Directives on ambient air quality; the Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012, which transposes requirements of Directive 2004/42/EC (the VOCs in Paints Directive); and the National Emission Ceilings Regulations which transpose requirements in the National Emission Ceilings Directive. This instrument makes minor and technical amendments to the existing legislation described above to ensure the legislation is operable after EU Exit. The changes in this instrument include necessary fixes such as: amending cross references to EU legislation; amending references to the EU etc.
- **X/01: The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2018.** This SI makes amendments to the Environmental Permitting Regulations 2016 in order to fix deficiencies in the legislation that result from the UK leaving the EU. The amendments fix, in particular, the way in which cross references to EU directive provisions are to be read so that these continue to work now the UK is no longer an EU Member State. The SI corrects cross references to EU legislation that would not be appropriate post EU exit, for example a reference to a provision that includes the “Commission” or “Member States”, which would cause an operability issue for the legislation unless fixed.
- **The Environment (Amendment etc.) (EU Exit) Regulations 2019.** Some cross-cutting, environmental Acts, such as the Environmental Protection Act 1990, the Environment Act 1995 and the Pollution Prevention and Control Act 1999, refer to our obligations as an EU Member State and to EU legislation. This instrument is being made in order to maintain the effectiveness and continuity of UK legislation that would otherwise be left partially inoperable/unable to function legally following our exit from the EU. It represents no changes of policy, nor will it produce any impact on businesses or the public.
- **TF01: The Environment and Wildlife (Legislative Functions) (EU Exit) Regulations 2019.** This instrument provides for a series of legislative functions that are currently conferred by EU legislation upon the European Commission to be

exercisable instead by domestic authorities. Amendments within this cross-cutting SI are separated from others to make this SI affirmative and the AQ SIs negative. For Air Quality, this SI transfers over specific provisions of the European Pollutant Release and Transfer Register which lays down rules for its functioning, in order to implement the UNECE Kiev Protocol.

- **TF02- The Environment (Legislative Functions from Directives) (EU Exit) Regulations 2019.** This instrument transfers a series of legislative functions that are currently conferred by European Union Directives upon the European Commission to be exercisable instead by public authorities in the United Kingdom so that they can be exercised at national level following the UK's departure from the EU. Part 2 of these Regulations covers Directives relating to air quality. These Directives cover emissions of volatile organic compounds ("VOCs"), ambient air quality, industrial emissions, emissions from medium combustion plants and the reduction of national emissions from certain atmospheric pollutants.
- **The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 (ENV/23).** This instrument makes several miscellaneous amendments to ensure certain environmental laws continue to operate effectively following the end of the Implementation Period and was laid as a negative SI. This instrument also makes additional necessary changes that are either consequential or correcting other EU Exit regulations, to make them operable. Regulations 4 and 6 make minor changes to other Regulations made under section 8(1) of the European Union (Withdrawal) Act 2018, relating to air quality and chemicals. The amendments in this instrument to The Air Quality Standards Regulations 2010 and the National Emission Ceilings Regulations 2018 will ensure that this secondary legislation transposing EU environmental law will continue to function as intended. The update to PM_{2.5} limits from 2020 in the Air Quality Regulations and the amendment of the PM_{2.5} percentage of base emissions in the National Emissions Ceiling Regulations by 2030 will ensure that the UK Government is able to direct policy towards achieving the correct specified emission limits over the next 10 years. The UK Government engaged with the Scottish Government, Welsh Government and the Northern Ireland Executive during the development process and the drafting of the SI.
- **The Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) Regulations 2020 (AQ/04), revoked.** This SI, AQ04 was required to amend EU Exit air quality legislation (the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 and the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019). To ensure that the Protocol on Ireland / Northern Ireland obligations were met, it was laid as a negative SI. The instrument will help ensure that the UK meets its obligations under the Protocol in respect of the products covered by the VOCs in Paints Directive and activities that come within the Industrial Emissions Directive (in so far as they meet the limitations set out in the Protocol). It does this by amending the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 (2018/1407) and the Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 (2019/74) so

that the legislation amended by those instruments continue to apply with necessary amendments to reflect the Protocol.

- **The Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) (No. 2) Regulations 2020.** These Regulations are made in exercise of the powers conferred by section 8C of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c.16). The Regulations make amendments to legislation in the field of air quality to make amendments necessary to recognise the Northern Ireland Protocol as part of the EU Withdrawal Agreement. These Regulations are made in substantially the same form as the Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) Regulations 2020, which were revoked shortly after they were made by the Air Quality (Amendment) (Northern Ireland Protocol) (EU Exit) (Revocation) Regulations 2020.
- **The Air Quality (Legislative Functions) (Amendment) Regulations 2021 (ENV/27).** This instrument was laid early 2021 as an affirmative SI with provisions related to PRTR offshore reporting along with transfer of functions that enable the reporting and ecosystem reporting requirements.

ANNEX D - Industrial emissions reporting timeline

Reporting Stream	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
UK Registry (Annual)									Submission 30 Sep			
PRTR-LCP (Annual)										Publish section 1-4 30 Sep (+12 month)	Submission 30 Nov	
SCLF (Annual – no deadline)						Submission (30 June)						
4 th Daughter Directive (BaP – Nickel measures) (Annual)												Measures Report 31 Dec
IED Annex II (3 yearly)									Submission 30 Sep (2022)			
Paints Reporting (5 yearly)						Submission 30 Jun (2021)	Submission 30 Jun (2026)					
MCP Reporting (5 yearly)	CO Reporting 01 Jan (2021)									Submission 01 Oct (2026)	Submission 01 Oct (2031)	
PRTR Protocol National Implementation Report (NIR)(4 yearly)	CO Reporting 21 Jan (2024)											

Examples of where the reporting requirement has been expanded in more detail:

- **UK Pollutant Release and Transfer Register.** In order to ensure that the UK continues to meet its obligations under the international protocol a UK Pollution Release and Transfer Register has been established. The register will ensure that there continues to be a database that is accessible to the public which holds the relevant data from all relevant UK industrial facilities. Under the Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 the relevant competent national authority (appointed by the Secretary of State, Welsh Ministers, Scottish Ministers and relevant Northern Ireland Department) will be required to obtain the necessary information from the operators of the installations concerned. That information must then be provided to the Secretary of State for inclusion into the UK register by specified deadlines.
- **UK Registry on industrial sites and IED Annex II reporting waste incineration and waste co-incineration plants (The Industrial Emission Directive) –** The Directive and Commission implementing decision 2018/1135 required the UK to ensure that information was made available to the Commission on the implementation of the Directive including representative data on emissions and other forms of pollution, on emission limit values, on the application of best available techniques and the granting of exemptions in accordance with and on progress made concerning the development and application of emerging techniques. The Air Quality (Miscellaneous Amendment and Revocation of Retained Direct EU Legislation) (EU Exit) Regulations 2018 provides that following EU exit the appropriate authorities across the UK are required to prepare the data by the relevant deadlines, and that a summary of that data can be published, or an indication given as to where the data is already publicly available. The Northern Ireland Protocol requires that a subset of Northern Ireland data is submitted to the Commission as per statutory deadline (refer to timeline above).
- **Sulphur content of liquid fuels (SCLF):** The purpose of the Sulphur Content of Liquid Fuels Directive is to help monitor and reduce the emissions of sulphur dioxide resulting from the combustion of certain types of liquid fuels and thereby to reduce the harmful effects of such emissions on habitats and the environment. A compliance report is compiled for the UK annually with data provision from UK Petroleum Industry association (UKPIA), UK Maritime and coast guard agency (UKMCA) and a Defra survey conducted with UK fuel storage facilities.
- **Benzo[a]Pyrene and Nickel measures:** The Air Quality Standards Regulation 2010 (Fourth Daughter Directive) is primarily to monitor and assess exceedances of Arsenic, cadmium, nickel, mercury, benzo(a)pyrene and other polycyclic aromatic hydrocarbons which has set target values for concentrations of B[a]P and Nickel in air and being able to reduce the harmful effects on human health and environment. Measures reports for each exceeding zones and including UK overview reports for both pollutants are compiled annually with input from the Scottish Government, Welsh Government and the Northern Ireland Executive and their competent authorities.
- **Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products:** The Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinish Products Regulations 2012. This is a five yearly reporting which outlines

the UK's approach to enforcing the Regulation and provides enforcement data in relevant industries in scope of this reporting.

- **Medium Combustion Plants Directive.** MCP reporting requires relevant data to be reported every five years on 01 October 2026 and then five years later 01 October 2031. This should include total annual emissions of SO₂, NO_x and dust from medium combustion plants, grouped by plant type, fuel type and capacity class. It also requires a one-off reporting of Carbon monoxide (CO) emissions and concentration from Medium Combustion Plants to be reported by 01 January 2021. This is an estimate of total annual emissions of CO and any information available on the concentration of emissions of CO from medium combustion plants, grouped by plant type, fuel type and capacity class. Defra will continue to collate the UK reports with input from the Devolved Governments as set out above and make them publicly available.

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