



HM Government

Resources and Waste Provisional Common Framework Framework Outline Agreement and Concordat

December 2022

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HM Government

Resources and Waste Provisional Common Framework

Framework Outline Agreement and Concordat

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

December 2022



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Framework Outline Agreement

This document sets out the UK-wide Resources and Waste Common Framework. It is intended to facilitate multilateral policy development and set out high level commitments by the UK Government (UKG), Scottish Government (SG), Welsh Government (WG), and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA) (Hereafter ‘the Parties’) This document will be developed iteratively and amended and added to by mutual agreement.

Development of this Common Framework is based on the underlying JMC(EN) Common Framework Principles agreed in October 2017 by the UK Government, Scottish Government, and Welsh Government and in June 2020 by NI Executive (see section 4).

Section 1: What we are talking about

1. Policy Area

This section details the policy area encompassed by the outline agreement, as set out in the UK Government’s Frameworks analysis 2020¹.

This Framework covers the multiple legislative systems relating to waste and resource efficiency as part of the wider approach to delivering a circular economy: from primary legislation to secondary legislation and statutory guidance and codes of practice, alongside the gathering of technical and scientific evidence on waste, stakeholder engagement, policy-making processes and design, enforcement, research and market surveillance coordination.

2. Scope

2.1. Existing arrangements

Waste has been comprehensively legislated for by the EU and, where not already directly applicable in EU legislation, has been transposed into and is underpinned by domestic legislation. The elements of retained EU law in this area that intersect with or impact upon devolved competence, i.e., the specific directives and regulations, are listed below:

1. The Waste Framework Directive (2008/98/EC) (as amended by the Circular Economy Package)
2. The Landfill Directive (99/31/EC)
3. The Mining Waste Directive 2006/21/EC

¹ [Frameworks-Analysis-2020.pdf \(publishing.service.gov.uk\)](#)

4. The Packaging and Packaging Waste Directive (94/62/EC)
5. The ELV Directive (2000/53/EC)
6. The Batteries Directive (2006/66/EC)
7. The WEEE Directive (2011/19/EU)
8. The RoHS Directive (2011/65/EU)
9. The EU Waste Shipment Regulation (1013/2006/EC)
10. Regulation (EU) No 1257/2013 on ship recycling
11. Single Use Plastic Directive (Directive (EU) 2019/904)
12. The Waste Statistics Regulation (2150/2002/EC)
13. The Regulation on Ozone Depleting Substances (1005/2009)
14. Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants
15. Ecodesign Directive (2009/125/EC)
16. Regulation (EC) No 66/2010 on the EU Ecolabel
17. Eco-Management and Audit Scheme Regulation (EMAS) (regulation (EC) No 1221/2009)
18. Organisation for Economic Co-operation and Development (OECD) municipal waste data return (voluntary)
19. Regulation (EU) 2017/852 Of the European Parliament and Of the Council of 17 May 2017 on mercury, and repealing Regulation (EC) No 1102/2008
20. Environmental Crime Directive 2008/99/EC
21. Environmental Liability Directive 2004/35/EC

Further details on specific areas are given below.

2.2. Division of competence

Most of the subject matter of the relevant EU legislation falls into devolved competence, whilst some elements are reserved matters.

The elements that relate to product standards and shipment of waste across international borders are generally reserved, however given scope for impacts on the complex value chains for waste across the UK it has been common practice to share potential policy changes at an early stage to allow for local impacts to be evaluated and taken into account.

Decision-making on reserved matters will continue to sit with the UK Government in line with the devolution settlements, however the UK Government will involve all Parties as fully as possible in decision-making on reserved matters which impact on devolved matters or have a distinctive importance to a devolved government.

The Common Frameworks Principles agreed at JMC(EN) state that Common 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 UK Government and the devolved governments 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 MoU² and its accompanying International Relations (IR) Concordat³. 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 Intergovernmental Relations (IGR) Review, as the basis for such international considerations.

2.3. What EU Legislation does

The EU legislation cited above is either transposed into domestic legislation through multiple pieces of legislation and is thus retained EU law (REUL) or was, prior to EU exit, directly applicable and is therefore retained direct EU law (RDEUL). The transposed law is a mix of UK-wide instruments, and those that apply variously only to England, Wales, Scotland, or Northern Ireland, either alone or in combination, as passed prior to the end of the Transition Period.

The EU legislation enshrined an obligation to handle waste in a way that does not have a negative impact on the environment or human health, a requirement to apply the waste hierarchy and, in accordance with the polluter-pays principle, a requirement that the costs of disposing of waste must be borne by the holder of waste, by previous holders or by the producers of the product from which the waste derives.

The waste hierarchy sets the following priority order when shaping waste policy and managing waste at the operational level: prevention (including reuse), preparing for reuse, recycling, other recovery and, as the least preferred option, disposal (which includes landfilling and incineration without energy recovery). In 2020 the waste acquis was amended to incorporate circular economy principles.

² [MoU between the UK and the Devolved Administrations.pdf \(publishing.service.gov.uk\)](#)

³ [MoU between the UK and the Devolved Administrations.pdf \(publishing.service.gov.uk\)](#) p.43

2.4. How the existing EU framework currently operates

The EU acquis has been transposed through both UK-wide and devolved domestic legislation in each of the Parties. There is also some directly applicable EU legislation, e.g., the Waste Statistics Regulation, which is retained EU law. Most of the domestic legislation is monitored and enforced by the Parties' enforcement agencies and the Local Authority Trading Standards. Some legislation is enforced by the Office of Product Safety and Standards and the Driver and Vehicle Licensing Agency (DVLA). For devolved matters, decision making is largely undertaken individually by the Parties. However, for areas of devolved policy where a UK-wide approach has been followed, this shared approach continues to be maintained through close working arrangements and joint decision-making, underpinned by joint working groups/meetings and shared consultations where required.

2.5. Scope, within these rules, for different parts of the UK to do things differently

This is largely a devolved area of competence, and each nation has its own strategies, waste management plan, waste prevention programme and waste targets (including, variously, for waste prevention, reuse, recycling, energy from waste and landfill). Enforcement of the waste legislation is also generally carried out by each UK nation's regulatory agency. Regulation of some waste streams, notably through the producer responsibility regimes, currently operates on a UK-wide basis (although some elements such as enforcement are still carried out by UKG and the devolved governments individually). Divergence in policy approaches exists in relation to areas such as the approach to recycling in Wales (including statutory recycling targets for local authorities), dedicated circular economy strategies in Scotland and Wales, regulations requiring businesses to recycle (in place in Scotland, to be introduced in Wales and England) and regulations establishing deposit return schemes (in place in Scotland, proposed for Wales, Northern Ireland, and England). Where EU Directives set minimum standards/targets etc., different parts of the UK have been able to set higher standards or targets where they wanted to, and often have done so for waste issues.

2.6. Relevant international obligations

- UN Sustainable Development Goals and relevant associated targets, such as 12.3 target to reduce food waste
- Basel Convention
- OECD Decisions
- Commonwealth Clean Ocean Alliance
- Minamata Convention on Mercury
- Stockholm Convention on Persistent Organic Pollutants
- The London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter
- Montreal Protocol
- The United Nations Framework Convention on Climate Change (UNFCCC); and the 2015 Paris Agreement
- The Convention on Biological Diversity

Not legally binding:

- UNEA resolutions on sustainable consumption and production, waste management, chemicals and waste and food waste
- G7 Alliance on Resource Efficiency on both the Toyama Framework on Material Cycle (2016) and the 5-year Bologna Roadmap (2017) adopted at the G7 Environment Ministers' Meetings
- Ellen MacArthur Foundation's New Plastics Economy Global Commitment (October 2018)
- Hong Kong Convention on Ship Recycling (not in force)

2.7. The 1998 Belfast Agreement, also known as the Good Friday Agreement

The 1998 Agreement required a North/South Ministerial Council (NSMC) to be established to bring together those with executive responsibilities in Northern Ireland and the Irish Government, to develop consultation, co-operation, and action within the island of Ireland - including through implementation on an all-island and cross-border basis - on matters of mutual interest within the competence of the government of Ireland and the NI Executive.

Environment, which includes waste, is within the remit of the NSMC. It has been common practice to share relevant information, potential policy changes and initiatives in these fora at an early stage. This allows for local impacts, including those across national and international borders, to be evaluated and taken account of, including opportunities to capitalise on areas of mutual benefit.

This process also takes place on an ad hoc basis at official level in both the policy and enforcement arena, with joined up working taking place where beneficial.

2.8. The Protocol on Ireland/Northern Ireland (NIP)

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 of the Northern Ireland Protocol are relevant to this framework:

- Chapter 15 – Electrical and radio equipment;
- Chapter 23 – Chemicals and related; and
- Chapter 25 – Waste.

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 Government 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 will 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 Department or 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 paragraph 13 of section 3 of this document.

2.9. Geographic scope of the framework

The Framework is UK-wide.

2.10. Interdependencies

There are links to other policy areas and Common Frameworks, including chemicals (Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), Mercury etc.), water quality (e.g., spreading of sewage sludge), air quality, marine, agriculture, decarbonisation, and international and domestic trade.

The value chain for waste is complex. Wastes frequently move across borders to be managed (legally or illegally) and some waste materials and evidence of recovery are traded as a commodity. Waste facilities can straddle borders or may be mobile operations that operate across the UK. A pollution incident caused by a facility in one part of the UK may impact on the environment/health in another. There is a need to provide for joint working between the Parties and to ensure that the regulatory agencies can work together (enforcement, research, strategies etc.).

2.11. Specific Policy areas

There are a number of legislative and non-legislative policy areas in scope of the Framework, some operate on a UK-wide basis, whilst others, such as Waste Prevention Programmes operate on an individual UK nation basis (or other combination of UK nations). Key existing policy areas are highlighted below:

1. Waste Prevention Programmes detailing waste prevention measures – including reuse, repair, remanufacturing, re-engineering, lending, leasing, hiring, ‘product as a service’/servitisation and other circular economy business models, as well as reducing the materials and embedded carbon used in products.
2. Powers to prohibit or restrict the importation, use, supply or storage of injurious articles, including product bans using powers under Section 140 of the Environmental Protection Act 1990⁴ and the Environment Act 2021. For example, as applied for the ban on the supply and manufacture of ‘rinse-off’ personal care products which contain plastic microbeads, or wider approach on market restrictions for Single Use Plastics.

⁴ To note that this piece of legislation relates only to importation in Northern Ireland.

3. Charges to encourage waste prevention/reuse – for example the carrier bag charge.
4. Product Environmental Standards arising from a number of Directives, such as RoHS (2011/65/EU Restriction of the Use of Hazardous Substances in Electrical and Electronic Equipment). Powers to extend this are provided for UKG and devolved government ministers in the UK Environment Act 2021.
5. Extended Producer Responsibility (EPR) / Producer Responsibility (PR) for a number of high priority waste streams to ensure producers take full cost and environmental considerations into account in the design and manufacture of products to achieve a more sustainable approach to resource use and more responsible management of products when they become waste.
6. Product environmental labelling – for example an on-pack recycling label to make it clear what can and cannot be recycled. This could be extended to include carbon footprint and/or recycled content labelling, for example. Powers for this are provided for all the relevant UK and devolved government ministers in the UK Environment Act 2021.
7. The use of levies/deposits to encourage take-back of unwanted items to facilitate reuse, repair, or recycling.
8. The setting of requirements for recycling, including targets, separate collection requirements, consistency, Materials Recovery Facility (MRF) quality reporting, etc.
9. Banning of specific wastes to energy from waste, landfill, and sewer.
10. Moratoria/limits/bans on energy from waste and landfilling, including the banning of inputs from outside of England, Scotland, Wales, or Northern Ireland (through either permit conditions or development planning condition restrictions).
11. Data Gathering and publication: a harmonised system (including a consistent coding/classification system/list of waste types) for gathering and reporting data, also covering a national packaging database, waste tracking, waste data flow, data gathering and funding arrangements. In future, this will include arrangements for a waste tracking service, and for the reporting of “placed on the market” data and recycling rates in each of the Parties for products covered under extended producer responsibility schemes (EPR). This will include packaging, waste electrical and electronic equipment (WEEE), batteries, end-of-life vehicles (ELV), and any future new EPR schemes. It will also cover data for deposit returns schemes (DRS), initially for drinks containers, but could potentially be expanded to other products.
12. Resource and waste taxes – e.g., aggregates levy and landfill tax. This includes any hypothecated sums agreed by HM Treasury – e.g., Landfill tax receipt to fund work on environmental crime.
13. Mining waste policy to manage waste from extractive industries.
14. International waste shipments – setting out controls for movements of waste across international borders.
15. Environmental permitting, duty of care and waste carriers.

16. Waste regulation and enforcement, tackling waste crime and illegal activity.
17. Waste contribution to decarbonisation and climate change.
18. Management of hazardous wastes.

3. Definitions

The following definition currently forms a key part of the Common Framework:

Waste, as defined in Article 3(1) in the Waste Framework Directive⁵. It also includes litter, as defined in Part 4 of the same Act.

Section 2: Proposed breakdown of policy area and framework

4. Summary of proposed approach

This section aims to identify the areas where common rules and/or arrangements for working together are necessary or desirable in accordance with the JMC(EN) Common Frameworks Principles agreed in 2017⁶.

In summary the Principles are:

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 territory as is afforded by current EU rules;
 - lead to a significant increase in decision-making powers for 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

⁵ [Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives \(Text with EEA relevance\) \(legislation.gov.uk\)](#)

⁶ [Microsoft Word - Joint Ministerial Committee communique.docx \(publishing.service.gov.uk\)](#)

that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.”

The Parties note that some degree of divergence of policy and implementation has already occurred and may continue to occur given the devolved nature of the policy area.

A non-statutory framework is required to facilitate compliance with international commitments and to set out ways of working that support joint decision making where appropriate and dispute resolution where diverging approaches could demonstrably impact on another Party.

The initial objective of the Framework is to facilitate working arrangements for areas of devolved policy where a UK-wide approach has already been established. In other areas where the Parties have worked independently, for example in the development of waste prevention programmes and recycling targets, the Framework allows for joint communication to share progress in developing and reviewing. It will be possible to add other areas of resources and waste policy as appropriate and with the agreement of the Parties. Recognising that much of Resources and Waste policy is a devolved matter, this Framework sets out a statement of intent, and is not a binding arrangement. It does not create legal obligations between the Parties.

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

No additional legislation is deemed immediately necessary for the implementation of this Framework.

As resources and waste policy is primarily devolved, it is expected that the Scottish Government, Welsh Government, and Department of Agriculture, Environment and Rural Affairs (DAERA) will continue to make a substantial portion of legislation on a devolved basis.

The UK Government will continue to legislate in reserved areas and may (where legislation allows) legislate, with the agreement of relevant devolved governments, in certain devolved matters.

Decision-making on reserved matters will remain with the UK Government in line with the devolution settlements, however the UK Government will involve the Scottish Government, Welsh Government, and DAERA as fully as possible in decision-making on reserved matters that impact on devolved matters, or have a distinctive importance to Scotland, Wales and/or Northern Ireland.

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

Non-legislative arrangements will consist of an associated Concordat between the UK Government, Scottish Government, Welsh Government, and DAERA covering working arrangements and shared principles.

The Parties have agreed a Concordat covering the following:

1. Introduction: context, purpose, and relevant contacts
2. Scope

3. Principles for working together
4. Dispute Avoidance, Resolution Mechanism
5. Review and Amendment Mechanism
6. International obligations

The Framework is underpinned by retained EU law and minimum standards. The Framework will evolve over time, following UK-wide discussions, to meet future UK-wide regulatory needs.

The requirement to transpose EU legislation has resulted in a broadly consistent approach to the objectives and principles within which waste is managed across the UK.

The Framework sets out the shared policy objectives and shared principles within which the four governments of the UK will manage waste in the future. The Framework covers the key areas covered by the EU framework that applied before the end of the transition period and supports the consideration of a common approach for future developments whilst recognising the ability of each Party to develop individual policy, legislation etc. The Framework is a governance structure to allow joint working and managing divergence in waste policy. The scale of the impact of any divergence will be a key consideration. The Framework is non-statutory and UK-wide.

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

None.

Operational detail

Section 3: Proposed operational elements of Framework

8. Decision making

8.1. Decision types

The types of decisions that may need to be discussed at a UK-wide level include:

1. Policy decisions for areas in scope of the Resources and Waste Framework, including policy creation or regulatory change, as well as policy operational issues.
2. Resolution of issues, including before needing to initiate the dispute resolution mechanism.
3. Referring issues to the overarching dispute avoidance and resolution mechanism outlined in Annex I.
4. Reviewing and amending the framework (including further development e.g., decision making and escalation process).

8.2. Decision-making fora

Official level discussion

The main forum for official-level discussion and decision-making, other than on a day-to-day basis between corresponding officials, will be the Resources and Waste (policy officials) Working Group. Terms of Reference for this group are set out in Annex I. The Resources and Waste (policy officials) Working Group can, as necessary, establish separate sub-groups to consider specific matters. These sub-groups will set, agree, and review Terms of Reference for the sub-group. The frequency of meetings of sub-groups will be determined by work projects/programmes and individuals in each sub-group. All sub-groups will operate within the principles of the Common Framework dispute avoidance and resolution mechanism contained in the Concordat and FOA. The mechanism for senior official level discussion and decision-making will be initially via discussion between the relevant resources and waste senior officials. If such officials do not agree the matter can be escalated to the Senior Official Programme Board (SOPB) in the context of the Framework's dispute avoidance and resolution mechanism.

This does not replace or preclude the existence of other formal or informal joint groups to work on aspects of policy development with a shared interest, as currently happens routinely.

Senior official level discussion

The mechanism for senior official level discussion and decision-making will be via discussion between the relevant Resources and Waste senior officials in the Parties.

8.3. Commitments on regular meetings on Resources and Waste policy

Regular face-to-face meetings and/or teleconferences of the Resources and Waste policy officials Working Group will take place:

- a) Initially monthly, moving to quarterly meetings of the Resources and Waste (policy officials) Working Group, with each Party working to inform and involve Competent Authorities and other bodies as appropriate. Terms of Reference for the Official Level Working Group are at Annex I;
- b) Policy official meetings/conversations on a subject basis, as and when appropriate;
- c) A joint project board/working group and technical adaptation committee to be set up to take forward planning if agreed necessary by all Parties.

8.4. Decision-making principles

8.1. This agreement acknowledges the statutory freedom of all Parties to take decisions and have separate regulations on areas within their competence; however, the Framework will serve as a mechanism by which to consider or facilitate a UK-wide or multi-nation approach where appropriate and where all Parties agree to work together on matters of mutual interest as set out in the JMC(EN) Common Framework principles. The Parties recognise that changes could have impacts on regulation, policy, the UK internal market (including movements of wastes across internal UK borders) and international obligations that need to be discussed and considered through the arrangements set out in this Framework.

8.2. Decision-making processes should be clear and transparent to all Parties and reflect the accountability to each of the Parties' respective Ministers. Processes should also be evidence based; where open communication and collective working supports the development of appropriate solutions where they might be needed.

8.3. As a basis for informed decision-making, representatives will ensure good communication, in line with the appropriate intergovernmental structures, through sharing timely information and meeting regularly as described below.

8.4. The Parties will give appropriate consideration to the views of other Parties, where the primary aim is not to constrain the competence of any Party but to allow sufficient time to make representations and for those representations to be fully considered.

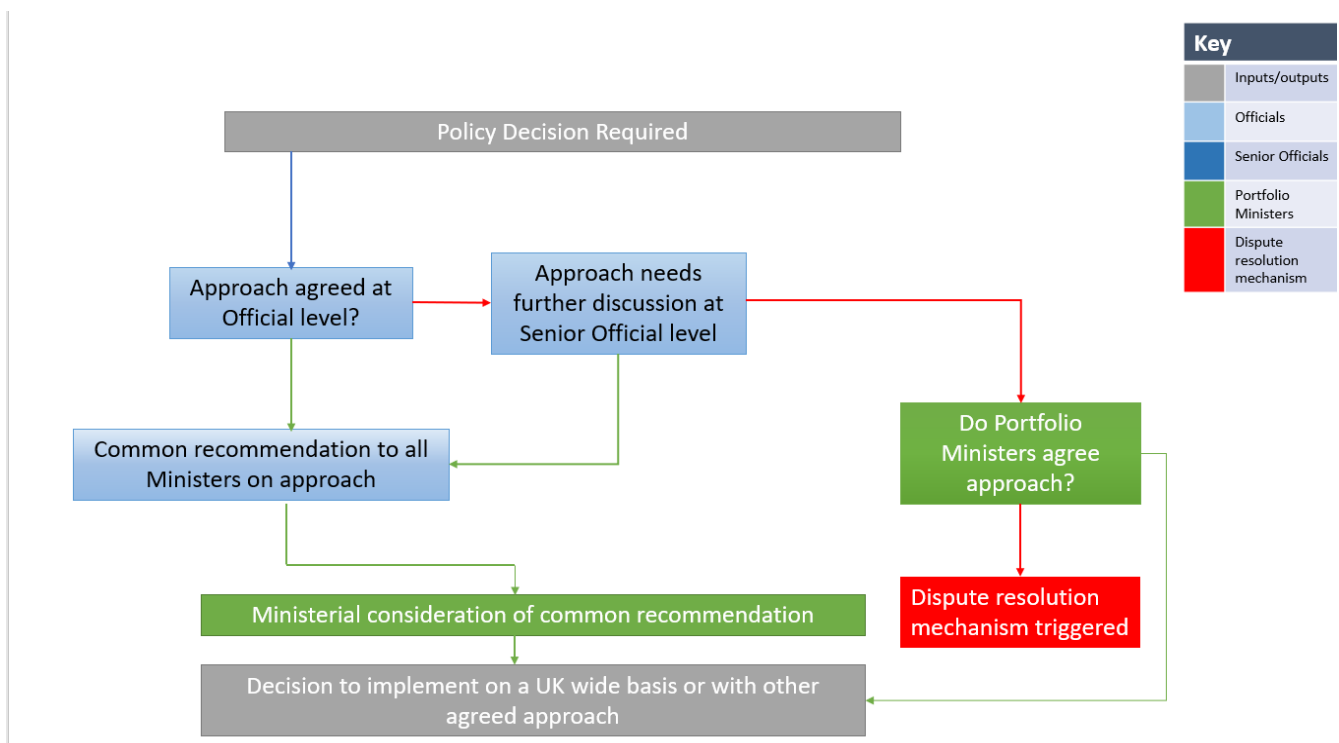
8.5. Where feasible, the timelines for reaching a decision should be set down and agreed in advance. All Parties should be given sufficient time to consider and consult before being required to make a commitment/decision. However, it is acknowledged that in some circumstances, the timetable for decisions may need to be accelerated. Where required to inform decision making, or to support UK-wide arrangements a clear process for external stakeholder (e.g., industry) engagement will be agreed. Suggested timelines for the two main types of policy decisions are:

- a) **Policy creation decisions** – Wherever possible, Parties agree to inform other Parties of prospective new or changed policy in sufficient time for others to take

appropriate action and make potential collective cross-UK decisions, in line with the Memorandum of Understanding and supplementary agreements on devolution⁷.

- b) **Policy operational decisions** – An annual timetable of the regular decisions required by existing regulations will be developed and shared among officials. However, ad hoc policy maintenance decisions can be added to the schedule, as required, with the agreement of all parties. **Where possible**, at least one month’s notice should be given prior to a decision being required to ensure the functioning of the current regulations.

The aim will be to make decisions through consensus, and to support co-development and co-design in jointly agreed areas of policy.



Flowchart showing policy decision-making process flow

If the approach to a policy decision is agreed at Official level, a common recommendation is made to all Ministers, which is then considered and implemented on a UK-wide basis (or with other agreed approaches). If the approach is not agreed at Official level, it is discussed further at Senior Official level, before a common recommendation is made to Ministers. If the Portfolio Ministers agree to the Senior Official’s approach, the decision is implemented on a UK-wide basis (or with other agreed approaches). If, however, the Portfolio Ministers do not agree, only then is the dispute resolution mechanism triggered.

⁷ [MoU between the UK and the Devolved Administrations.pdf \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

9. Roles and responsibilities of each Party to the Framework

9.1. Details of each party and their roles

a. Officials

Hold day-to-day discussions on the policy covered by the Frameworks and put advice to Ministers with the rationale for the approach taken within a policy area (e.g., a UK/GB-wide approach). If officials do not agree in day-to-day discussions when making decisions, issues discussed at a working level can be escalated initially to the Resources and Waste Working Group, or to senior officials in line with the Framework's dispute avoidance and resolution mechanism.

b. Resources and Waste (policy officials) Working Group

Officials from all Parties will convene at the Resources and Waste (policy officials) Working Group to discuss policy issues, as appropriate, to keep colleagues regularly informed of any ramifications that policy will have across the Parties (details of meeting frequency in 8. above). Terms of Reference for the Official Level Working Group are at Annex I. If officials do not agree, either in this group or in day-to-day discussions 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.

c. Senior Officials

Senior officials⁸ (e.g., Deputy Directors and Directors) provide strategic direction on the policy areas governed by the Framework and take key operational decisions. They may review an issue as set out in the dispute avoidance and resolution mechanism if officials are not able to agree an approach. Similarly, if Ministers have disagreed with advice from officials in the first instance, in another attempt to reach resolution, senior officials should convene to discuss issues as appropriate, either by regular meetings or on an ad hoc basis. Issues will then be escalated initially to the SOPB.

d. Ministers

Ministers may receive advice from their officials as issues arise or in the course of business as usual for individual administrations. Ministers may agree or disagree with advice. If work is remitted to senior officials and an issue remains unresolved, the issue may be escalated to Ministers. Where Ministers are considering joint decisions or 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.

9.2. Information sharing

1. The linear data collection process currently in place will be changed to one of inter-Party information sharing. This will be essential to allow effective decision making to

⁸ Grade 5 or above

take place and to allow the UK to fulfil its reporting obligations against e.g., international agreements or targets.

2. Where practical, all Parties will share ideas and best practice.
3. Policy alert system: a Party will alert the other Parties to new policy developments. There will be a standing agenda item to discuss policy developments at the quarterly UK Government, Scottish Government, Welsh Government, and DAERA Resources and Waste (policy officials) Working Group. This does not preclude or replace the existence of separate, routine policy discussions by subject.
4. It is recognised that it may not always be practical to wait until the quarterly meeting to provide an alert, in which case, other channels of communication can be used.

9.3. Parliamentary and stakeholder communication and engagement

1. Parliamentary engagement of all Parties in the UK and their respective legislatures should be at relevant stages of development of legislation.
2. It is recognised that clear communication with stakeholders is important to ensure the smooth development and delivery of resources and waste policy. Where policy proposals cover more than one Party, arrangements for stakeholder communication will be jointly developed and agreed. The Parties will work together to ensure necessary stakeholder communication and consultation takes place in the most effective ways.

10. Roles and responsibilities of existing or new bodies

1. As noted in section 2, paragraph 8 above, all Parties commit to involving other bodies as appropriate. This approach will be reviewed in line with the review and amendment mechanism detailed in section 12 to determine its effectiveness and whether a different approach is needed.
2. The interface with regulatory bodies and decision-making will continue to be developed.
3. All Parties recognise that there may be a need to formalise and/or expand existing UK arrangements. Therefore, all Parties commit to working together to support progress in the development of technology and other innovations in the area of resources and waste, including through consultation and information sharing regarding plans for development and funding of research activity. As part of this, the Parties recognise the principle that open communication and integrated working supports the development of innovative solutions where needed.

11. Monitoring

The Resources and Waste (policy officials) Working Group will meet quarterly to monitor the Framework, in addition to regular 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 the Parties are implementing and complying with the Framework;

- whether divergence has taken place in contravention of the JMC(EN) Common Framework principles; and
- whether divergence has taken place that impacts on a policy area covered by the Framework.

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

12. Review and amendment

12.1. Process

1. 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, all Parties must agree timelines for the process, including the possible amendment stage.
 - If agreement is not reached in either the review or amendment stage, the Parties can raise it as a dispute through the Framework's dispute avoidance and resolution mechanism.

12.2. Review Stage

- A periodic review of the Framework will take place after six months initially, then after one, then three years, after implementation in line with official or ministerial level meetings.
 - a. The period before review starts from the conclusion of a periodic review and any amendment stages that follow.
 - b. During the periodic review, the Parties will discuss whether the governance and operational aspects of the framework are working effectively, and whether decisions made over the period since the previous review 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).

12.3. 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 the Parties cannot agree whether or how the 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 avoidance, mitigation, and resolution

- i. While it is expected that the principles of good communication and cooperation amongst Parties, as set out elsewhere in this arrangement, will allow potential disputes to be avoided as a result of discussions amongst policy officials, there is the potential that a dispute will arise. Disputes could either arise:
 - a) Over disagreement on the approach to a policy issue, where officials cannot agree an approach; or
 - b) Over disagreement on the functioning of the Framework, where officials in one or more Parties consider officials in another Party to have breached an element of the agreed Framework processes.
- ii. A disagreement between Parties becomes a 'dispute' when it enters the formal dispute avoidance and resolution process set out in the appropriate intergovernmental structures (see Appendix I).
- iii. 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.
- iv. This mechanism will be utilised only when genuine agreement cannot be reached, and divergence would impact negatively on the ability to meet the JMC(EN) 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.
- v. The groups having a role within this Framework are:
 - i. the Resources and Waste (policy officials) Working Group;
 - ii. Resources and Waste Senior Officials (Deputy Director or equivalents in the devolved governments); and

- iii. the formal UK Government-Devolved Government SOPB (consisting of senior officials from Defra, the Scottish Government, Welsh Government, and DAERA), the SOPB performs a sifting/challenge role ahead of a ministerial level discussion).
- vi. If a disagreement is not resolved by the SOPB it is subsequently escalated to the Ministers to consider, through the Inter-ministerial Group for Environment, Food and Rural Affairs (IMG-EFRA), although Ministers may come to an agreement outside of this forum.
- vii. The diagram at Appendix I outlines the levels of escalation of a disagreement to a dispute and details of the interaction between each level.
- viii. 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.
- ix. Evidence gathering:

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

Section 4: Practical next steps and related issues

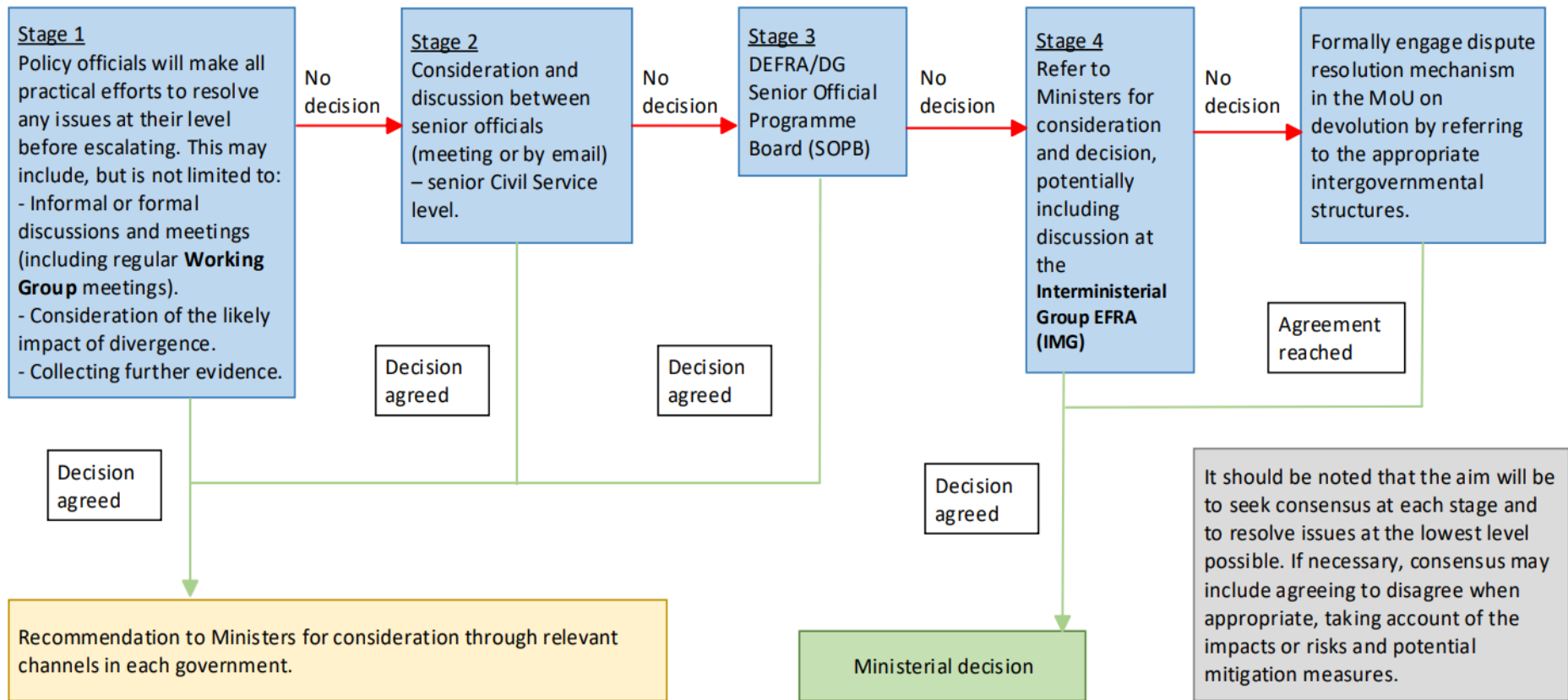
14. Implementation

The framework has been published and implemented on a provisional basis.

15. Next steps

- Parliamentary scrutiny
- Ministerial agreement
- The non-legislative agreement (Concordat between the four Governments) that will implement the Resources and Waste Common Framework will be signed.

Appendix I: Flowchart of the dispute avoidance, mitigation, and resolution process



Flowchart showing the dispute avoidance, mitigation, and resolution process

If a decision is agreed at any the following three stages, then a recommendation is made to Ministers for consideration through relevant channels in each government:

- Stage 1: Policy officials will make all practical efforts to resolve any issues at their level before escalating. This could include, but is not limited to, informal or formal discussions and meetings (including regular Working Group Meetings); consideration of the likely impact of divergence; and/or collecting further evidence.
- Stage 2: Consideration and discussion between senior officials (meeting or by email) – senior Civil Service level.
- Stage 3: Defra/DG Senior Official Programme Board (SOPB)

If a decision has still not been reached:

- Stage 4: Refer to Ministers for consideration and decision, potentially including discussion at the Interministerial Group EFRA (IMG)

An agreed decision after stage four will result in a Ministerial decision. If no decision is agreed, then Parties should, as a last resort:

- Formally engage dispute resolution mechanism in the MoU on devolution by referring to the appropriate intergovernmental structures. This will result in a Ministerial decision.

It should be noted that the aim will be to seek consensus at each stage and to resolve issues at the lowest level possible. If necessary, consensus may include agreeing to disagree when appropriate, taking account of the impacts or risks and potential mitigation measures.

Annex I: Terms of reference for the Resources and Waste Working Group

Purpose

To bring together relevant officials from the Parties to:

- i. discuss the multiple legislative and policy approaches relating to waste and resource efficiency as part of the wider approach in delivering a circular economy; and
- ii. make joint decisions in accordance with the JMC(EN) Frameworks Principles.

Objectives

The purpose of the Resources and Waste Working Group is to bring together the UK Government, Scottish Government, Welsh Government, and DAERA to:

- Facilitate multilateral policy development
- Where appropriate seek to develop and agree upon common policy approaches
- Manage potential divergence in a way that respects the Devolution Settlements
- Coordinate parliamentary and stakeholder engagement and communication
- Review and amend the framework as per the Review and Amendment Mechanism (RAM)
- Escalate issues as per the dispute avoidance and resolution process

Membership

Core membership:

- Defra (Department for Environment, Food and Rural Affairs),
- DAERA (Department of Agriculture, Environment and Rural Affairs),
- Welsh Government (Department for Climate Change)
- Scottish Government (Environment and Forestry)
- Additional invitees as necessary

Operation of the Group

1. The Group will meet on a monthly (initially), moving to quarterly basis.
2. The Group will be supported by a secretariat from Defra Environmental Quality Resources and Waste division.
3. The secretariat will disseminate the agenda together with any products commissioned for consideration at the meeting, at least three working days prior to the meeting being scheduled.
4. Each Party 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.

5. Where the Group decides that actions should be tasked to other working groups, or that other fora should be informed of outcomes of Group meetings, the secretariat will be responsible for this.
6. These Terms of Reference may be amended as necessary by a decision of the Group.

Concordat for Resources and Waste Policy

Concordat between the United Kingdom (UK) Government, Scottish Government, Welsh Government, and DAERA

1. Introduction: context, purpose, and relevant contacts

- 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), henceforth referred to as “the Parties”.
- 1.2. This Concordat provides the non-legislative mechanism to underpin the Resources and Waste Common Framework and sets out the principles of engagement which all Parties will respect and work to.
- 1.3. This Concordat establishes an agreed approach for co-operation between the Parties. It operates in accordance with the principles outlined in the appropriate intergovernmental structures and the principles described in the Joint Ministerial Committee (European Negotiations) communique of 16 October 2017, which sets out that:

“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.”

- 1.4. The communique also states that:

“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 territory as is afforded by current European Union (EU) rules;
- lead to a significant increase in decision-making powers for the devolved administrations.

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”.

- 1.5. This Concordat remains as a multilateral agreement between all the Parties.

Northern Ireland Protocol (NIP)

- 1.6. 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 (NI) will remain aligned with the EU. The following paragraphs of Annex 2 of the Northern Ireland Protocol are relevant to this framework.

Chapter 15 – Electrical and radio equipment;
Chapter 23 – Chemicals and related; and
Chapter 25 – Waste.

- 1.7. 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.
- 1.8. Where one or more of UK Government, the Scottish Government, DAERA, or the Welsh Government 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 will provide governance structures and consensus-based processes for considering and managing the impact of these changes.
- 1.9. 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.
- 1.10. 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.
- 1.11. 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 the Framework Outline Agreement.

2. Scope

- 2.1. This is largely a devolved area of competence, and each nation has its own strategies, waste management plan, waste prevention programme and waste targets (including, variously, for waste prevention, reuse, recycling, energy from waste and landfill). Enforcement of the waste legislation is also generally carried out by each UK nation’s regulatory agency. Regulation of some waste streams, notably

through the producer responsibility regimes, currently operates on a UK-wide basis (although some elements such as enforcement are still carried out by each of the nations individually). Divergence in policy approaches exists in relation to areas such as the approach to recycling in Wales (including statutory recycling targets for local authorities), dedicated circular economy strategy in Scotland and Wales, regulations requiring businesses to recycle (in place in Scotland, to be introduced in Wales and England) and regulations establishing deposit return schemes (in place in Scotland, proposed for Wales, Northern Ireland, and England). Where EU Directives set minimum standards/targets etc., different parts of the UK have been able to set higher standards or targets where they wanted to, and often have done, for waste issues.

3. Principles for working together

3.1. General

- 3.1.1. The previous requirement to transpose EU legislation has resulted in a broadly consistent approach to the management of waste and resources across the UK. However, as it is a devolved area of competence and each Party has its own strategies, waste management plan, and waste prevention programme, all Parties retain the ability to diverge in devolved areas of policy.
- 3.1.2. The Parties affirm their mutual commitment to work together on the application of UK law as it stands on 1 January 2021 (as may be amended or superseded in future) and Domestic Regulations and initiatives in relation to waste and resources policy (as detailed above) and their respective responsibilities. This cooperation is intended to give all Parties the assurance that the working relationships will be conducted in a manner that is both collaborative and helpful, the Parties aim, where appropriate, to achieve agreement on the general broad approach and/or on relevant issues of mutual interest, recognising the need to maintain flexibility for tailoring policies to the specific needs of each nation, and respecting decision-making powers and accountability under the devolution settlements. In addition, all Parties agree that regular contacts will continue in order to discuss ongoing business of mutual interest through close liaison at official and Ministerial level.
- 3.1.3. This Concordat is intended to provide the basis for the management and maintenance of (where appropriate): common approaches or the opportunity for divergence; minimum standards; surveillance and information sharing, by setting out governance arrangements for decision-making and dispute avoidance and resolution underpinned by a clear process. All Parties to the Concordat agree that a Common Framework approach is desirable across the UK to enable the functioning of the UK internal market, while acknowledging policy divergence and whilst recognising the Devolution settlements and Common Frameworks principles agreed at the Joint Ministerial Committee on EU Negotiations (JMC(EN)) in 2017.
- 3.1.4. Where common recommendations may be made, Ministers will retain the right to take individual decisions for their government and amend Officials' recommendations. This is further covered by section 3.3.1 below.
- 3.1.5. For relevant areas within the scope of the Resources and Waste Common Framework, the opportunity for a common approach across the UK Government, Scottish Government, Welsh Government, and DAERA will be considered and

sought, where appropriate, while taking account of the interests of, and impacts on all the Parties. The ability for divergence is retained in line with the devolution settlements, recognising that divergence can provide key benefits such as driving higher standards and generating innovation and improved standards, while taking account of its impact on the functioning of the UK internal market. Every effort will be made at working level to resolve any disagreements through early engagement. Where a consensus cannot be reached by these arrangements (whether that is agreement to a collective approach or to accept divergence) the dispute avoidance and resolution process can be instigated.

3.2. Decision making

3.2.1. Decision types

The types of decisions that may need to be discussed at a UK-wide level include:

- I. Policy decisions for areas within scope of the Resources and Waste Framework, including policy creation or regulatory change, as well as policy operational issues, including where legislation requires the Secretary of State to secure consent of Ministers in Scotland, Wales and/or Northern Ireland in respect of action being taken in Scotland, Wales and/or Northern Ireland.
- II. Resolution of issues.
- III. Referring issues to the overarching dispute avoidance and resolution mechanism outlined in the appropriate intergovernmental structures.
- IV. Reviewing and amending the Framework and Concordat.

3.2.2. Decision-making fora

The main forum for official level discussion and decision-making will be the Resources and Waste (policy officials) Working Group. The Resources and Waste (policy officials) Working Group can, as necessary, establish separate sub-groups to consider specific matters. These sub-groups will set, agree and review their own Terms of Reference and the frequency of their meetings, as determined by work projects/programmes and individuals in each sub-group. All sub-groups will operate within JMC(EN) Common Framework principles, and the dispute avoidance and resolution mechanism contained in the Resources and Waste Framework. The mechanism for senior official level discussion and decision-making will be initially via discussion between the relevant Resources and Waste Senior Officials. If such officials do not agree the matter can be escalated to the Senior Official Programme Board within the context of the Framework's dispute avoidance and resolution mechanism.

3.2.3. Decision-making principles

- Decision-making processes should be clear and transparent to all Parties and reflect the accountability to each of the Parties' respective Ministers. Processes should also be evidence based; where open communication and collective working supports the development of appropriate solutions where they might be needed.
- As a basis for making informed decisions, representatives from each Party will ensure good communication, in line with the appropriate intergovernmental

structures, through sharing timely information and meeting regularly as described in this document.

- All Parties shall give appropriate consideration to the views of the other Parties, where the primary aim is not to constrain the competence of any Party but to allow sufficient time to make representations and sufficient time for those representations to be fully considered, in line with the memorandum of understanding and supplementary agreements on devolution.⁹
- Where feasible, the timelines for reaching a decision should be set down and agreed in advance. All Parties should be given sufficient time to consider and consult before being required to make a commitment/decision. However, it is acknowledged that in some circumstances, the timetable for decisions may need to be accelerated. Where required, to inform decision-making or to support UK-wide arrangements, a clear process for external stakeholder (e.g., industry) engagement will be agreed.

3.3. Roles and responsibilities of each Party to the Concordat

3.3.1. Specific roles

- **Officials**

Officials will hold regular discussions on the policy covered by the Framework and put advice to Ministers with the rationale for the approach taken. If officials do not agree to decisions made during day-to-day discussions, issues discussed at a working level can be escalated initially to the Resources and Waste (policy officials) Working Group, and then, if required, to senior officials in line with the Framework's dispute avoidance and resolution mechanism.

- **Resources and Waste (policy officials) Working Group**

Officials from across the Parties will convene at the Resources and Waste (policy officials) Working Group to discuss policy issues as appropriate, and to keep one another regularly informed of any ramifications that policy could have across all Parties.

If officials of the group cannot reach agreement, 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 officials¹⁰ (e.g., Deputy Directors and Directors) provide strategic direction on the policy areas governed by the Framework and take key operational decisions. They may review an issue through the dispute avoidance and resolution mechanism if officials are not able to agree an approach, or if Ministers do not agree with the advice received 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. Issues can be escalated initially to the Senior Officials Programme Board (SOPB).

⁹ [MoU between the UK and the Devolved Administrations.pdf \(publishing.service.gov.uk\)](#)

¹⁰ Grade 5 or above

- **Ministers**

Ministers may receive advice from their officials either in parallel across the Parties as issues arise or in the course of business as usual for individual Parties. Ministers may agree or disagree with the advice put to them. 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 decision-making or dispute avoidance and resolution mechanism this could be via several media, including inter-ministerial meetings or by correspondence.

3.3.2. Regular communication, including face to face meetings and/or teleconferences, will take place:

- Initially monthly, moving to quarterly official meetings as a group (The Resources and Waste (policy officials) Working Group), with each Party working to inform and involve relevant Competent Authorities and other bodies as appropriate;
- Policy official meetings/telephone or email conversations on a subject basis, as and when appropriate;
- A project board/working group and technical adaptation committee to be set up to take forward planning if required.

3.3.3. Information sharing:

- Information sharing between the Parties will be essential to allow effective decision making to take place.
- Where practical, all parties will share ideas and best practice.
- Policy alert system: The Parties, as set out in Section 1 above, to use a method to:
 - Alert each other as soon as practicable to relevant developments within their areas or responsibility, wherever possible, prior to publication; and
 - Give appropriate consideration to the views of the other Parties.
- There will be a standing agenda item to discuss policy developments at the quarterly officials' meetings. It is recognised that it may not always be practical to wait until the quarterly meeting to provide an alert, in which case, other channels of communication can be used.

3.3.4. Collaboration for Policy development

It is recognised that policy development may be facilitated by all Parties. This could include activities such as information sharing and the sharing of resources and research. Where an approach is proposed that is either UK-wide or will cover more than one nation, arrangements will be established that allow for the policies to be drawn up, developed, and agreed jointly between the participating Parties.

3.3.5. Parliamentary engagement:

Engagement with legislatures should be at relevant stages of development of legislation and proposals.

3.3.6. Stakeholder engagement:

It is recognised that clear communication with stakeholders is important to ensure the smooth operation of resources and waste policy. The parties will work to ensure necessary stakeholder communication and consultation can take place as appropriate. Where engagement is proposed with stakeholders on a UK-wide basis or to encompass more than one nation, relevant arrangements will be established to jointly develop and agree the approach.

3.4. Roles and responsibilities of existing or new bodies:

All Parties commit to informing or involving other bodies as appropriate. This approach will be reviewed in line with the review and amendment schedule detailed in section 5 to determine its effectiveness and whether a different approach is needed.

All Parties recognise that there may be a need to formalise and/or expand existing UK wide arrangements. This process will take place as and when necessary and will reflect the need to ensure appropriate devolved accountability and decision-making.

4. Dispute Avoidance and Resolution Mechanism

- I. Following the approach set out in the Resources and Waste 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 or the through to the Resources and Waste policy officials Working Group. In devolved areas, divergence on policy is an acceptable outcome and can be referred onward in line with the Framework's dispute avoidance and resolution mechanism for review and approval by the next stage.
- II. The Parties commit to working together in a spirit of mutual cooperation and openness to informally resolve any difficulties that arise at the earliest possible stage. Where this is not possible, they commit to using the dispute avoidance and resolution mechanisms set out in the associated Framework Outline Agreement for Resources and Waste.
- III. Where it is jointly determined that it is desirable to review, change or update the Concordat or Framework, the Parties agree to use the Review and Amendment mechanisms set out in the Framework.

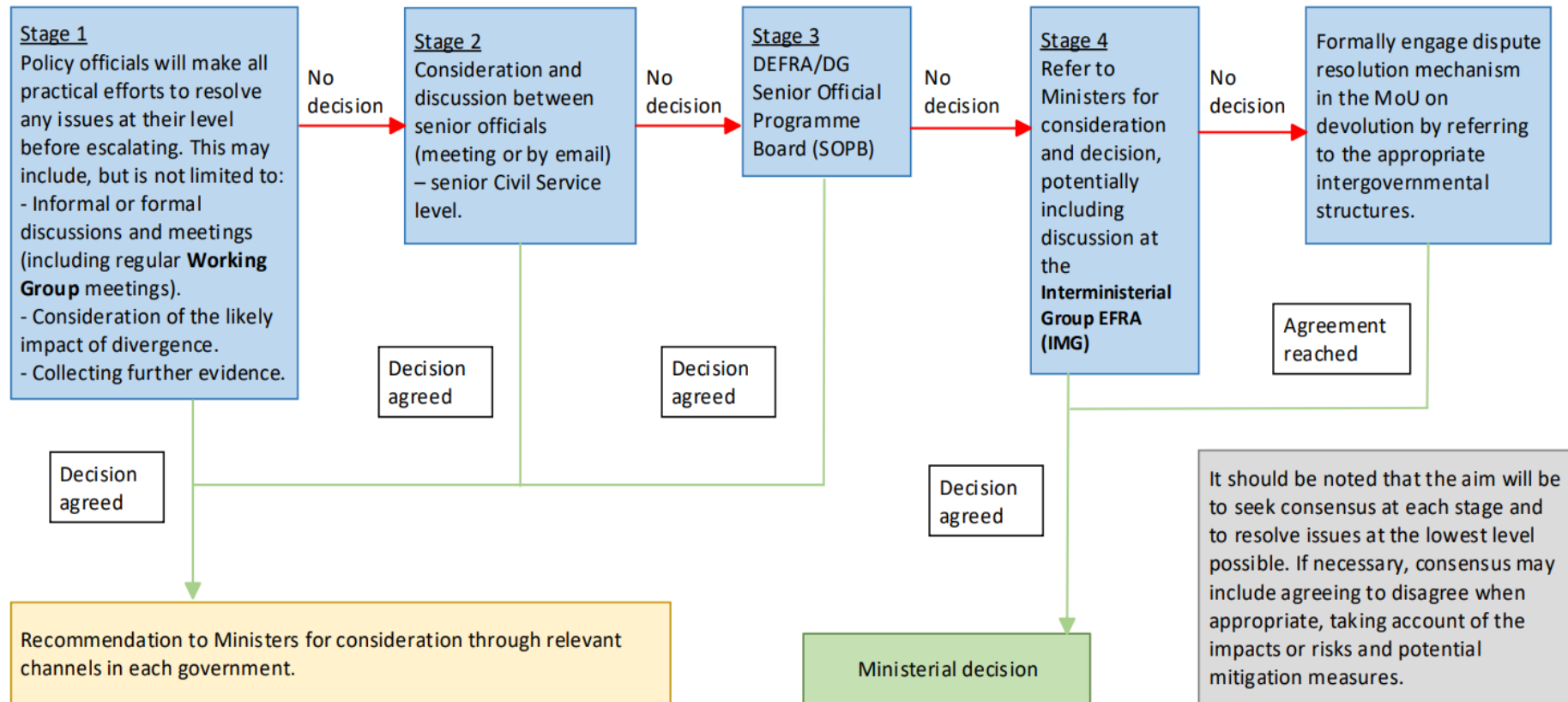
5. International obligations

- 5.1. Two international agreements (the Basel Convention and the OECD Decision) provide an overarching legal framework for the control of transboundary waste shipments. Changes to the fundamental processes and procedures that govern waste shipments is, for the most part, subject to international agreement. Defra leads for the UK on negotiations under the Basel Convention and the OECD Decision.
- 5.2. The Minamata Convention is an international agreement on mercury that also covers mercury waste. Defra leads for the UK on negotiations under this Convention.

- 5.3. The Common Frameworks Principles¹¹ 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.
- 5.4. 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.
- 5.5. 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.
- 5.6. Decision-making on international conventions and treaties will continue to sit with the UK Government in line with the devolution settlements. The UK Government, however, will involve the Scottish Government, Welsh Government, and DAERA as fully as possible in decision making on non-devolved matters which impact on devolved matters or have a distinctive importance to a devolved nation.
- 5.7. The decision-making processes will be clear and transparent to all Parties, recognising that the cross-border nature of waste and resources requires close co-operation across the UK to provide clarity and assurance to business and consumers. It builds on long-standing arrangements between the Parties to seek decisions by consensus and to avoid unnecessary regulatory fragmentation, while recognising existing divergence and devolved competence.

¹¹ [Microsoft Word - Joint Ministerial Committee communique.docx \(publishing.service.gov.uk\)](#)

Appendix I: Flowchart of the dispute avoidance, mitigation, and resolution process.



Flowchart showing the dispute avoidance, mitigation, and resolution process

If a decision is agreed at any the following three stages, then a recommendation is made to Ministers for consideration through relevant channels in each government:

- Stage 1: Policy officials will make all practical efforts to resolve any issues at their level before escalating. This could include, but is not limited to, informal or formal discussions and meetings (including regular Working Group Meetings); consideration of the likely impact of divergence; and/or collecting further evidence.
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If a decision has still not been reached:

- Stage 4: Refer to Ministers for consideration and decision, potentially including discussion at the Interministerial Group EFRA (IMG)

An agreed decision after stage four will result in a Ministerial decision. If no decision is agreed, then Parties should, as a last resort:

- Formally engage dispute resolution mechanism in the MoU on devolution by referring to the appropriate intergovernmental structures. This will result in a Ministerial decision.

It should be noted that the aim will be to seek consensus at each stage and to resolve issues at the lowest level possible. If necessary, consensus may include agreeing to disagree when appropriate, taking account of the impacts or risks and potential mitigation measures.

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