



HM Government

# **Food Compositional Standards and Labelling Common Framework Provisional Framework Outline Agreement and Concordat**

February 2022

CP 592



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# **Food Compositional Standards and Labelling Common Framework**

## 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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# Framework outline agreement

This framework sets out non-legislative arrangements for co-operation between officials in the Department for Environment, Food and Rural Affairs (Defra), Food Standards Scotland (FSS), and the Food Standards Agency (FSA) in Wales and Northern Ireland ('the Parties') with regard to food compositional standards and labelling (FCSL) policy. It is underpinned by the Food Compositional Standards and Labelling Concordat agreed by the responsible Ministers in each of the four UK nations.

## Section 1: What we are talking about

### 1. Policy area

The policy area under consideration is food compositional standards and labelling (FCSL). This encompasses policies and regulations relating to:

- Food information to consumers
- Fish labelling (consumer information and traceability)
- Dairy designations and spreadable fats (labelling elements)
- Caseins and caseinates
- Cocoa & chocolate products
- Coffee extracts & chicory extracts
- Condensed milk and dried milk
- Fruit juices and fruit nectars
- Honey and honey products
- Jam and similar products
- Lot marking
- Natural mineral, spring, and bottled water
- Specified sugar products

### 2. Scope

The FCSL policy area is covered by a variety of retained EU law and associated domestic legislation. The retained EU laws which intersect with devolved competence and are in scope of the FCSL Framework are listed in Annex C.

This framework and its processes may be utilised by any one (or more) of Parties proposing amendments to or entirely new legislation in these policy areas as well as amendments to retained EU law affecting the commodities and policy areas listed above.

Relevant policy areas are governed by harmonised retained EU law and are directly applicable across the whole of the UK. The enforcement of these regulations is conferred directly on local authorities and powers for enforcement are provided by domestic legislation in each of the four UK nations.

FCSL policy areas fall within the competence of the Scottish Government, Welsh Government and the Northern Ireland Executive by virtue of the devolution settlements:

- The Scotland Act 1998
- The Government of Wales Act 2006
- The Northern Ireland Act 1998

Some variation in policy approaches already exists between UK nations in circumstances where divergence in application within individual nations was permitted through EU Directives and Regulations

Local enforcement policy is devolved and therefore recognises the differing legal systems and arrangements for local government across the UK Government, Scottish Government, Welsh Government, and the Northern Ireland Executive. However, all Parties agree that a level of commonality is beneficial, particularly for those businesses who operate across UK borders, and therefore close collaboration between the Parties will continue.

### **Domestic arrangements**

There are also several areas of FCSL Policy which were not covered by EU legislation and are legislated for domestically.

- Rules on Bread and Flour;
- Rules on products containing meat;
- Rules for curds and mincemeat.

Whilst these areas and any related policy changes remain within the competence of each party, any proposed changes to such arrangements should be presented to the FCSL Officials Group for discussion via the joint working process as outlined in this agreement and, where possible, agreement across the UK will be sought. These changes however shall not be bound by the formal dispute resolution process.

Domestic Enforcement and Execution Regulations are also out of scope of formal framework governance. However, it is anticipated that any changes to these arrangements will be discussed via the FCSL Officials Group.

### **International obligations**

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 UK Government, Scottish Government, Welsh Government and the Northern Ireland Executive 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 appropriate inter-Governmental structures. 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.

The international obligations that apply to this area are:

### **International trade**

EU and third countries will likely be looking for robust assurance on food standards before signing trade deals. The UK will be looking for robust assurance on food standards before signing trade deals with the EU and third countries.

### **International compositional standards & food labelling standards**

This framework is designed to ensure the UK can continue to fulfil international obligations such as Codex and WTO membership.

### **Northern Ireland considerations**

The Agreement on the Withdrawal of the United Kingdom from the EU sets out the current arrangements where, although remaining within the UK's Customs 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.

- 8 Goods – General provisions
- 29 Food – General
- 31 Food – Ingredients, Traces, Residues, Marketing Standards
- 33 Food – Other

This framework reflects the specific circumstances in Northern Ireland 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 12 of this document.

### **Interdependencies / exclusions**

When referring to Food Information to Consumers, Fish Labelling and Food Composition, this framework does not cover those areas covered by other frameworks, specifically:

- Nutrition Labelling Policy. The Nutrition Related Labelling and Compositional Standards (NLCS) Common Framework is being developed by the Department for Health and Social Care (DHSC) Food Standards Agency Northern Ireland, Food Standards Scotland, and the Welsh Government (covered within EU 1169/2011, Chapter 4, Section 3, articles 29-35).
- Allergen Labelling Policy. The Food and Feed Safety and Hygiene Common Framework is being developed by Food Standards Agency and Food Standards Scotland (covered within EU 1169/2011, Chapter 4, Section 2, Article 21)

Marketing standards issues pertaining to dairy designations will be considered in line with the Agricultural Support Framework. Where policy changes pertain to the labelling elements of dairy designations, these shall be in scope of this framework.

### 3. Definitions

- Food Standards Scotland (FSS) is the independent public sector food body working to protect public health and wider consumers' interests in relation to food in Scotland.
- Food Standards Agency (FSA) is the independent government department working to protect public health and consumers' wider interests in relation to food in England, Wales and Northern Ireland.
- The Department for Environment Food and Rural Affairs (Defra) is the UK government department responsible for safeguarding the UK's natural environment, supporting its food and farming industry, and sustaining a thriving rural economy.
- A Concordat is a multilateral political agreement, which indicates a common line of action. It is often used where a legal commitment would not be required or appropriate.

## Section 2: Proposed breakdown of policy area and framework

### 4. Summary of proposed approach

#### Legislation

The arrangements within this agreement do not require additional legislation. This framework will be implemented through a non-legislative agreement. The need for any additional legislation is expected to be limited to bespoke areas as agreed by all Parties to support the effective functioning of the framework once it is implemented.

This framework recognises the shared views of all the parties that a common framework is desirable across the UK and aims to enable the functioning of the UK Internal Market whilst acknowledging the potential for policy divergence. It also aims to ensure that future Free Trade Agreements can be completed on a UK wide basis whilst recognising the JMC(EN) common frameworks principles).

#### JMC(EN) frameworks principles

The Parties agree that the approach summarised within is sufficient according to Section 1 of the JMC(EN) Frameworks Principles (see Annex A for the full list of principles) to:

- Enable the functioning of the UK internal market, while acknowledging policy divergence.
- Ensure compliance with international obligations.
- Ensure the UK can negotiate, enter, and implement new trade agreements and international treaties.

The reason this policy area falls under these principles is that the framework provides a basis through which decision-making regarding FCSL policy can be agreed between the Parties.

#### Collaborative working

There is a need for continued robust policy development with the involvement of, and technical expertise from, all four nations, including the need to fully assess the potential impacts of legislative changes on all affected stakeholders.

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

It has been agreed that no legislation is required in this area.

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

A Concordat between UK government, Scottish Government, Welsh Government, and the Department of Health in Northern Ireland will provide the basis for managing and maintaining commonality in approach and minimum standards. The Concordat sets out agreements including governance arrangements.

## **Contents**

The concordat will cover the following:

1. Introduction: context, purpose, and relevant contacts
2. Scope
3. Principles for working together
4. Dispute avoidance and resolution mechanism
5. Review and amendment mechanism (RAM)
6. International obligations

The concordat sets out agreements including governance arrangements, including dispute avoidance and resolution mechanism. Working arrangements (both existing and new) are established and formalised for collaboration and coordination between all Parties.

## Operational detail

### Section 3: Proposed operational elements of framework

#### 7. Decision making

##### **Key joint decisions that will be made through this framework**

Ministers will retain the right to make individual decisions for their nation and policy divergence across UK nations will remain possible, in accordance with the Devolution Settlements in each nation. For areas within scope of the framework however a consensus regarding the anticipated impact of a policy change and the approaches to take should first be sought, and efforts made to resolve any disputes.

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

- Policy decisions
- Resolution of issues
- Referring issues to the overarching dispute avoidance and resolution mechanism outlined in the appropriate inter-Governmental structures.
- Reviewing and amending the framework

Policy changes should be considered in scope of this framework, subject to impact assessment / evidence consideration where:

- A Party seeks to make a change or review in an area of returning powers, within scope of the policy areas outlined in Section 2. This includes any changes to requirements, previously set out in EU Regulations and Directives and implemented separately in national law (but does not include enforcement and execution of retained EU law).
- Harmonised retained EU legislation provides scope for national measures to achieve common outcomes and so divergence is already possible e.g., national rules for curds and mincemeat provided for in regulations relating to Jam and Similar products.
- Different requirements are proposed for establishments within one nation placing products on the market solely within the territory of that nation (i.e., establishments are based in and supplying the local market only) or
- Different requirements are proposed for products produced in and placed on the market solely within the territory of one nation (i.e., products are produced and consumed exclusively in the local market only).

Policy changes should be considered outside scope of this framework where:

- Provisions relate to the enforcement and execution of retained - EU or other domestic law.

## **Decision-making fora**

The main forum for Official level discussion and decision-making will be the FCSL Officials' Group. Terms of Reference for this Group are set out in Annex B. The role of this Group will be to:

- Function as a forum for all UK nations to examine proposed amendments to, or entirely new legislation in food compositional standards and food labelling.
- Provide the opportunity to review UK wide impacts and whether a policy is appropriate to take forward on a single nation or UK wide basis.
- Provide a co-ordinated UK position on FCSL policy, resulting in clear and consistent messaging for consumers and industry.
- Facilitate multilateral policy development.
- Seek, where agreeable, to develop and agree upon common policy approaches.
- Manage potential divergence in a way that respects the Devolution Settlements.
- Coordinate FSA/FSS Board, parliamentary and stakeholder engagement and communication.
- Review and amend the framework as per the Review & Amendment Mechanism.
- Escalate issues as per the dispute avoidance and resolution process.

A flow chart detailing the joint decision-making process can be found at Annex D.

## **Decision making principles**

The Parties to this framework shall give due consideration to the following principles when making decisions:

- That consumers have the right to clear and accurate food information, to make informed, healthy, and safe choices.
- That compliant businesses should be supported to trade across the UK with minimal barriers.

## **Working groups**

Officials will have the ability to bring proposals for policy changes to the FCSL Officials Group. This will be done by providing the Group with a summary of the proposed change and any research and information that they have.

Should this Group decide further work is required on an issue, it will have the ability to set up working groups on a specific proposal, with relevant officials from each government being part of these groups. These working groups can be created at the request of one government to assist in further policy development.

Should these groups be created, they will be required to undertake working level discussions on policy proposals or changes within a timeframe agreed by the FCSL Officials Group.

Following these discussions, the Party proposing these discussions should notify the FCSL Officials Group of the proposed change and should prepare a policy paper on the specific issue under discussion.

This will then be considered by the FCSL Officials Group.

### **Decision making responsibility**

Ministers will retain the right to make individual decisions for their governments such as making legislation. Policy divergence across the UK will remain possible, in accordance with the devolved settlements in each nation.

It is anticipated that most routine decisions will be made at Official level, however in some instances Officials may be required to defer decision making to Senior Officials or Ministers. The level of decision-making responsibility required will be assessed on a case-by-case basis and in line with each Party's ordinary working practices including agreeing work and resource planning and obtaining the necessary clearances for proposals. Where decision-making responsibility needs to be escalated, Officials will be responsible for ensuring that this is done in a suitable manner, involving the appropriate individuals, and ensuring that decision makers have access to the full extent of evidence and information.

### **Evidence base**

It is envisaged that recommendations for most proposals will be agreed at Official level. It is therefore essential that an appropriate evidence base is developed at this level. The development of an evidence base could be carried out through:

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

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

### **Engaging with stakeholders**

If policy officials require additional evidence to aid decision-making, external stakeholders may be requested to submit evidence or input to consultations. This will include any industry or consumer stakeholders as appropriate. Policy officials will agree



policy proposals to the FCSL Officials Group prior to embarking on external consultation.

The outcomes of any agreed changes to FCSL policy in either one or more UK nations will be communicated to stakeholders in an appropriate manner.

Stakeholders' views have been sought and have informed the development of this framework.

## **Disagreements**

The Parties to this framework have agreed that if there is a disagreement on a decision pertaining to retained EU Law, an effort will be made to resolve this issue at the lowest possible level. If an issue cannot be resolved, Parties will follow the dispute resolution process outlined in section 12 of this document.

The dispute resolution process should be only be utilised if:

- agreement cannot be reached on the anticipated impact of a policy proposal; or
- agreement cannot be reached on a common recommendation regarding an application, request, or policy proposals; or
- one or more Party considers the terms of reference/parameters agreed for the governance framework have been breached; or
- one Party considers that a JMC(EN) principle has been broken, or undue weight has been placed on one JMC(EN) principle (or part of a principle) at the expense of another.

The intention is to resolve most issues through the FCSL Officials Group meetings including the views of Senior Officials where necessary, only escalating to Ministers where official level agreement cannot be reached. When disputes are referred for Ministerial decision-making, this may include Ministerial representation from any or all the four UK Governments as appropriate.

Any issues between Parties will be recorded as this may help to inform the RAM process when it is next conducted.

## **8. Roles and responsibilities of each party to the framework**

The following sets out the role and responsibilities of Officials and Ministers in this framework.

### **Officials**

Hold day-to-day discussions on the policy covered by frameworks and put advice to Ministers with the rationale for the approach taken within a policy area (e.g., a UK/GB-wide approach), or why divergent policies may be necessary. Officials across all 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 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 meetings or on an ad hoc basis.

### **FSA and FSS Boards**

Where appropriate the boards of FSS and the FSA will consider advice and evidence available, to provide recommendations and finalise advice prior to engaging with respective Ministers.

It is expected that many of the issues considered through this process will be routine and technical; therefore, it is unlikely that in those cases the Boards would be involved before advice is provided to Ministers on these issues.

### **Ministers**

Ministers may receive advice from their officials either concurrently across Parties as issues arise or during 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 administrations. 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 decide and therefore the distinction between Senior Minister and Minister will not be relevant. In the case of UK Government, a Senior Minister would be a Secretary of State (SofS). In Scotland, a Senior Minister would be a Cabinet Secretary.

### **Information sharing**

As per the appropriate inter-Governmental structures, each administration 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.

## **9. Roles and responsibilities of existing or new bodies**

### **New bodies**

#### **FCSL officials group**

The role of this group will be to:

- Be a forum for all UK nations to examine proposed amendments to, or entirely new legislation in food compositional standards and food labelling.
- Provide the opportunity to review UK wide impacts and whether a policy is appropriate to take forward on a single nation or UK wide basis.
- Provide a co-ordinated UK position on FCSL policy, resulting in clear and consistent messaging for consumers and industry.
- Facilitate multilateral policy development.
- Seek, where agreeable, 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 RAM.
- Escalate issues as per the dispute avoidance and resolution process.

## **10. Monitoring**

The FCSL Officials Group will meet quarterly to monitor the framework, where not otherwise monitoring during routine business. The purpose of monitoring is to assess:

- Inter-Governmental cooperation and collaboration arising from the framework.
- whether Parties are implementing and complying with the framework.
- whether divergence has taken place in contravention of the common framework principles.
- whether harmful 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.

## **11. Review and amendment**

This framework will be regularly reviewed and updated to ensure it remains fit for purpose. This will be achieved through the following review and amendment process. This process will be led by FCSL Officials Group, with engagement from Senior Officials and Ministers.

## 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 Non-Government Organisations 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

Following an initial review one year after implementation 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 conclusion of a periodic review and any amendment stages that follow.
- 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 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.

## 12. Dispute resolution

Dispute resolution is anticipated to only be required in a very small number of cases. The dispute resolution process should only be utilised if:

- resolution through normal working practices (including managing divergence) has not been possible; or
- agreement cannot be reached on the anticipated impact of a policy proposal; or
- agreement cannot be reached on a common recommendation regarding an application, request, or policy proposals; or
- one or more Party considers the terms of reference/parameters agreed for the governance framework have been breached; or
- one Party considers that a JMC(EN) principle has been broken, or undue weight has been placed on one JMC(EN) principle (or part of a principle) at the expense of another.

This recognises that in some areas commonality of approach will not be needed to meet the JMC (EN) common frameworks principles and therefore an agreement to diverge would be acceptable.

The intention is for issues to be discussed and resolved at the earliest possible stage. The process will seek to provide opportunities for differences to be resolved at official level wherever possible, therefore reducing the need for escalation.

In such cases where a dispute requires escalation and formal resolution the Party or Parties initiating the change should inform the FCSL Officials Group, allowing a reasonable period for the dispute resolution process to be followed.

If required it will convene the members of the FCSL Officials Group, Parties involved and any other organisation who are party to this framework. Any additional representation required at the meeting will be agreed in advance by members of the FCSL Officials Group.

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 official level. However, if required, a senior official from each nation will be nominated to participate in official level dispute resolution meetings. FSA and FSS Board considerations will be included here as appropriate.

When an issue is presented to the FCSL Officials Group, the position of each Party in the disagreement will be established, alongside a range of options for resolving the disagreement and criteria for an agreed outcome: These options may include but are not restricted to:

- a request for further mediation at a policy level; or
- a request for further evidence to be commissioned; or
- escalation to appropriate Ministers.

Where agreement cannot be reached at official level, senior officials will be invited to join the FCSL Officials Group as appropriate to reach an agreement. If agreement cannot be reached at senior official level the dispute will be raised to Ministers through the most appropriate channel.

In the event of a dispute being escalated to the Ministerial level, this could be a bilateral discussion between the Parties involved in the dispute, or if appropriate a multilateral discussion between Ministers from all four Governments and any other organisations who are party to this framework agreement.

In each instance, Ministers will consider the evidence gathered during official level discussions when attempting to reach an agreement on an outcome aimed at resolving the dispute. A discussion will be held based on the evidence presented with the aim of reaching an agreement on the anticipated impact of a policy proposal/ action to be taken.

Where disputes cannot be solved at Ministerial level, they shall be referred to the overarching process for dispute avoidance and resolution as outlined in the appropriate inter-Governmental Structures. That shall be used only as a final resort when issues cannot be resolved within framework governance structures.

Graphics showing the dispute resolution process is found in Annex E and F.

## Section 4: Practical next steps and related issues

### **13. Implementation**

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

#### **Next steps**

- Parliamentary scrutiny
- Ministerial agreement

The non-legislative agreement (Concordat between the four Governments) that will implement the FCSL framework will be signed.

# Annex A: Joint Ministerial Committee (EU Negotiations) communique, October 2017

## Common frameworks: definition and principles

### **Definition**

As the UK leaves the European Union, the Government of the United Kingdom and the devolved administrations agree to work together to establish common approaches in some areas that are currently governed by EU law, but that are otherwise within areas of competence of the devolved administrations or legislatures. A framework will set out a common UK, or GB, approach and how it will be operated and governed. This may consist of common goals, minimum or maximum standards, harmonisation, limits on action, or mutual recognition, depending on the policy area and the objectives being pursued. Frameworks may be implemented by legislation, by executive action, by memorandums of understanding, or by other means depending on the context in which the framework is intended to operate.

### **Context**

The following principles apply to common frameworks in areas where EU law currently intersects with devolved competence. There will also be close working between the UK Government and the devolved administrations on reserved and excepted matters that impact significantly on devolved responsibilities.

Discussions will be either multilateral or bilateral between the UK Government and the devolved administrations. It will be the aim of all Parties to agree where there is a need for common frameworks and the content of them.

The outcomes from these discussions on common frameworks will be without prejudice to the UK's negotiations and future relationship with the EU.

### **Principles**

1. Common frameworks will be established where they are necessary to:
  - enable the functioning of the UK internal market, while acknowledging policy divergence.
  - ensure compliance with international obligations.
  - ensure the UK can negotiate, enter, 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; and
  - 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; and
- 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: Terms of reference for food compositional standards and labelling officials group

## **Purpose**

To bring together Officials from the four Parties to discuss issues relevant to Food Compositional Standards and Labelling Policy; and to make joint decisions that uphold the JMC(EN) Frameworks Principles.

## **Objectives**

The purpose of the Food Compositional Standards and Labelling (FCSL) Officials Group is to bring together the Parties

- Be a forum for all UK nations to examine proposed amendments to, or entirely new legislation in food compositional standards and food labelling.
- Provide the opportunity to review UK wide impacts and whether a policy is appropriate to take forward on a single nation or UK wide basis.
- Provide a co-ordinated UK position on food compositional standards and labelling policy resulting in clear and consistent messaging for consumers and industry.
- Facilitate multilateral policy development.
- Seek, where agreeable, 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 RAM.
- Escalate issues as per the dispute avoidance and resolution process.

## **Membership**

A lead Official from each nation will be nominated to participate in meetings of this four-nation Group in accordance with the Framework Agreement and Concordat.

This should be at least Grade 7 level or equivalent, who will be suitably informed and can make official level decisions to reflect the importance of the Group.

A Senior Official (Grade 6 or equivalent) from each nation will be nominated to participate in official level dispute resolution meetings.

Additional officials will be invited as required.

## **Operation of the group**

The Group will meet on a quarterly basis. The Group can also meet at the request of one of the Parties to the Framework.

The chair will rotate across the Parties and the host Party will provide the secretariat functions.

The agenda will be provided by the secretariat and will be circulated at least one week prior to the meeting. Any proposals to be shared with the group should be shared at least one week prior to the meeting.

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.

Where the FCSL Officials 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.

These Terms of Reference may be amended as necessary by a decision of the FCSL Officials Group.

## Annex C: Legislation in scope

The elements of retained EU law in this area that intersect with devolved competence are:

- Regulation (EU) No 1169/2011 Regulation (EU) No 1169/2011 on the provision of food information to consumers and Implementing Acts (except for Chapter 4: Section 3, Articles 29-35 regarding nutrition labelling and Chapter 4: Section 2, Article 21 regarding allergen labelling).
- Commission Implementing Regulation (EU) No 1337/2013 laying down rules for the application of Regulation (EU) No 1169/2011 of the European Parliament and of the Council as regards the indication of the country of origin or place of provenance for fresh, chilled and frozen meat of swine, sheep, goats and poultry.
- Commission Implementing Regulation (EU) 2018/775 laying down rules for the application of Article 26(3) of Regulation (EU) No 1169/2011 of the European Parliament and of the Council on the provision of food information to consumers, as regards the rules for indicating the country of origin or place of provenance of the primary ingredient of a food.
- Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy – Article 58 (traceability of lots of fishery products)
- Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy – Articles 66 and 67 (definition of fishery products and traceability of lots).
- Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 – Articles 35 – 39 on mandatory and additional voluntary information for consumers.
- Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products – spreadable fats and dairy designations

National legislation in so far as it relates to flexibilities and national measures permitted by retained EU law. To note that the provisions relating to enforcement or execution of retained EU or other domestic law remain out of scope.

National legislation (food information)

- Food Information Regulations 2014
- Food Information (Scotland) Regulations 2014
- Food Information (Wales) Regulations 2014
- Food Information Regulations (Northern Ireland) 2014

National legislation (meat)

- The Country of Origin of Certain Meats (England) Regulations 2015
- The Country of Origin of Certain Meats (Scotland) Regulations 2016
- The Country of Origin of Certain Meats (Wales) Regulations 2015
- The Country of Origin of Certain Meats Regulations (Northern Ireland) 2015

National legislation (fish traceability and consumer information)

- The Fish Labelling Regulations 2013
- The Fish Labelling (Scotland) Regulations 2013
- The Fish Labelling (Wales) Regulations 2013
- The Fish Labelling Regulations (Northern Ireland) 2013

National legislation (Spreadable fats and dairy designations)

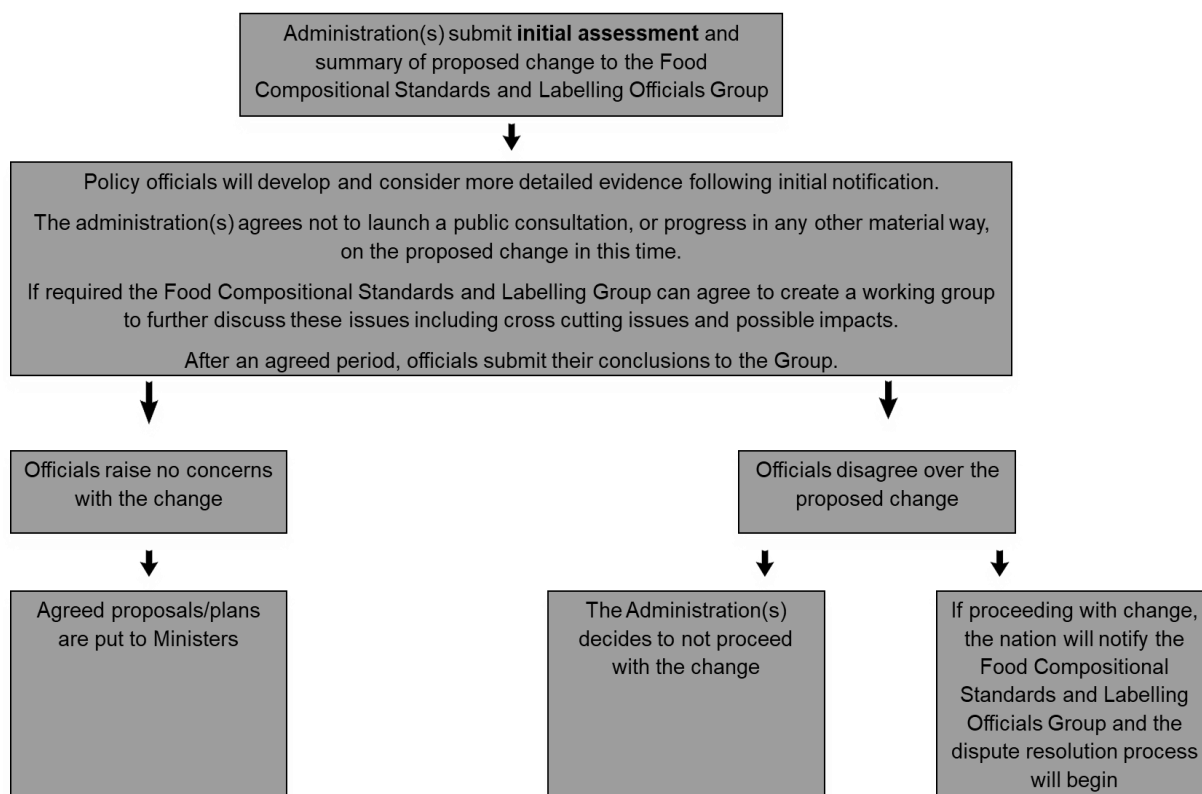
- The Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (England) Regulations 2008
- The Spreadable Fats, Milk and Milk Products (Scotland) Regulations 2008
- The Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) (Wales) Regulations 2008
- The Spreadable Fats (Marketing Standards) and the Milk and Milk Products (Protection of Designations) Regulations (Northern Ireland) 2008

National legislation created to implement EU Directives (as amended):

- Natural Mineral Water, Spring Water and Bottled Drinking Water (England) Regulations 2007
- Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) (No. 2) Regulations 2007
- Natural Mineral Water, Spring Water and Bottled Drinking Water (Wales) Regulations 2015
- Natural Mineral Water, Spring Water and Bottled Drinking Water Regulations (Northern Ireland) 2015
  
- Cocoa and Chocolate Products (England) Regulations 2003
- Cocoa and Chocolate Products (Scotland) Regulations 2003
- Cocoa and Chocolate Products (Wales) Regulations 2003
- Cocoa and Chocolate Products Regulations (Northern Ireland) 2003
  
- Coffee Extracts and Chicory Extracts (England) Regulations 2000
- Coffee Extracts and Chicory Extracts (Scotland) Regulations 2001
- Coffee Extracts and Chicory Extracts (Wales) Regulations 2001

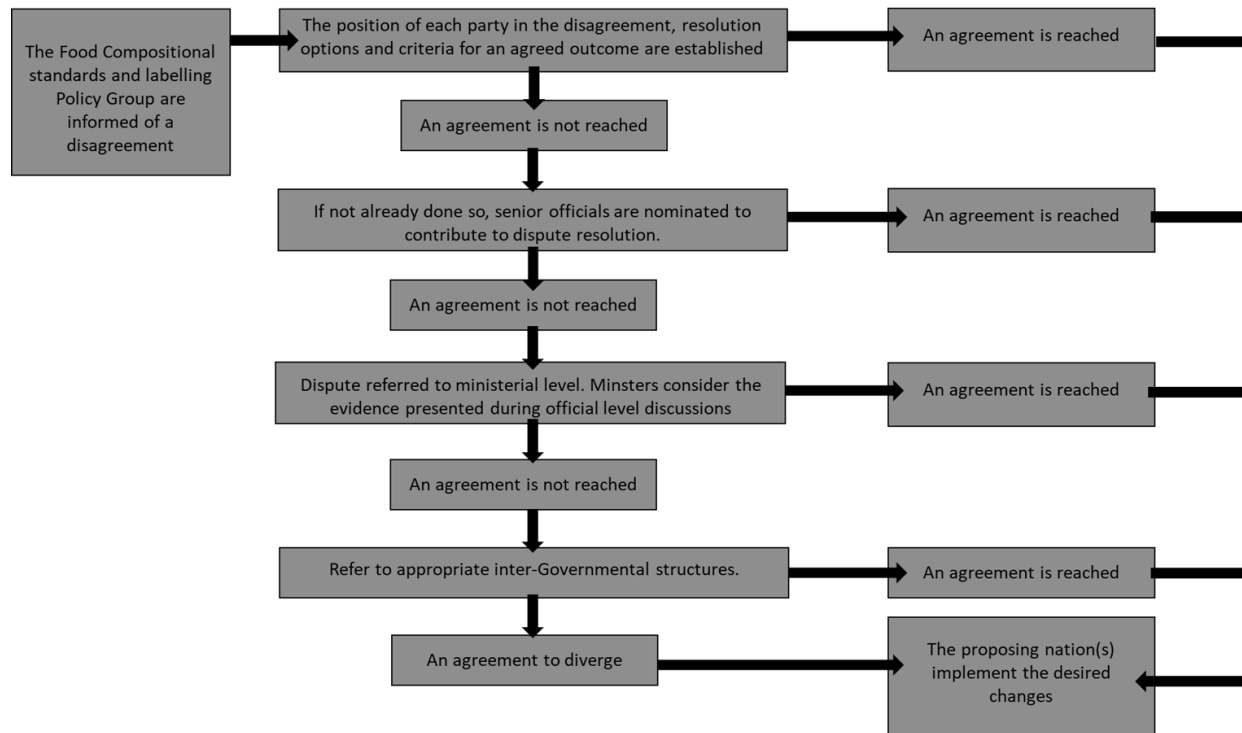
- Coffee Extracts and Chicory Extracts Regulations (Northern Ireland) 2001
- Fruit Juices and Fruit Nectars (England) Regulations 2013
- Fruit Juices and Fruit Nectars (Scotland) Regulations 2013
- Fruit Juices and Fruit Nectars (Wales) Regulations 2013
- Fruit Juices and Fruit Nectars Regulations (Northern Ireland) 2013
- Honey (England) Regulations 2015
- Honey (Scotland) Regulations 2015
- Honey (Wales) Regulations 2015
- Honey Regulations (Northern Ireland) 2015
- Jam and Similar Products (England) Regulations 2003
- Jam and Similar Products (Scotland) Regulations 2004
- Jam and Similar Products (Wales) Regulations 2018
- Jam and Similar Products Regulations (Northern Ireland) 2018
- Specified Sugar Products (England) Regulations 2003
- Specified Sugar Products (Scotland) Regulations 2003
- Specified Sugar Products (Wales) Regulations 2003
- Specified Sugar Products Regulations (Northern Ireland) 2003
- Caseins and Caseinates (England) Regulations 2017
- Caseins and Caseinates (Scotland) (No. 2) Regulations 2016
- Caseins and Caseinates (Wales) Regulations 2016
- Caseins and Caseinates Regulations (Northern Ireland) 2016
- Condensed Milk and Dried Milk (England) Regulations 2015
- Condensed Milk and Dried Milk (Scotland) Regulations 2003
- Condensed Milk and Dried Milk (Wales) Regulations 2018
- Condensed Milk and Dried Milk Regulations (Northern Ireland) 2018
- Food (Lot Marking) Regulations 1996
- Food (Lot Marking) Regulations (Northern Ireland) 1996

## Annex D: Joint decision-making mechanism



- Administration(s) submits initial assessment and summary of proposed change to the Food Compositional Standards and Labelling Officials Group.
- Policy officials will develop and consider more detailed evidence following initial notification.
- The administration(s) agrees not to launch a public consultation, or progress in any other material way, on the proposed change in this time.
- If required the Food Compositional Standards and Labelling Group can agree to create a working group to further discuss these issues including cross cutting issues and possible impacts.
- After an agreed period, officials submit their conclusions to the group.
- Officials agree on the potential impact of the change and raise no concerns with the change\*, the agreed proposals/plans are put to Ministers.
- Officials disagree on the potential impact of the change.
- The administration(s) decide not to proceed with the change.
- If intending to proceed with the change, the administration(s) will notify the Food Compositional Standards and Labelling Policy Officials Group and the dispute resolution process will begin.

# Annex E: Dispute resolution mechanism





## Diagram displaying the dispute resolution mechanism

- The Food Compositional Standards and Labelling Policy Officials Group are informed of a disagreement.
- The position of each party in the disagreement, resolution options and criteria for an agreed outcome is established.
- If an agreement is reached, the proposing nation(s) implement the desired change.
- If an agreement is not reached, and if not already done so, senior officials are nominated to contribute to dispute resolution.
- If this results in an agreement being reached, the proposing nation(s) implement the desired change.
- If there is still no agreement, the dispute is referred to ministerial level.
- Ministers consider evidence presented during official level discussions.
- If ministers reach agreement, the proposing nation(s) implement the desired change.
- Refer to appropriate intergovernmental structures if an agreement is not reached.
- If an agreement is reached, the proposing nation(s) implement the desired change.
- If there is an agreement to diverge, the proposing nation(s) implement the desired change.

# Annex F: Dispute resolution process

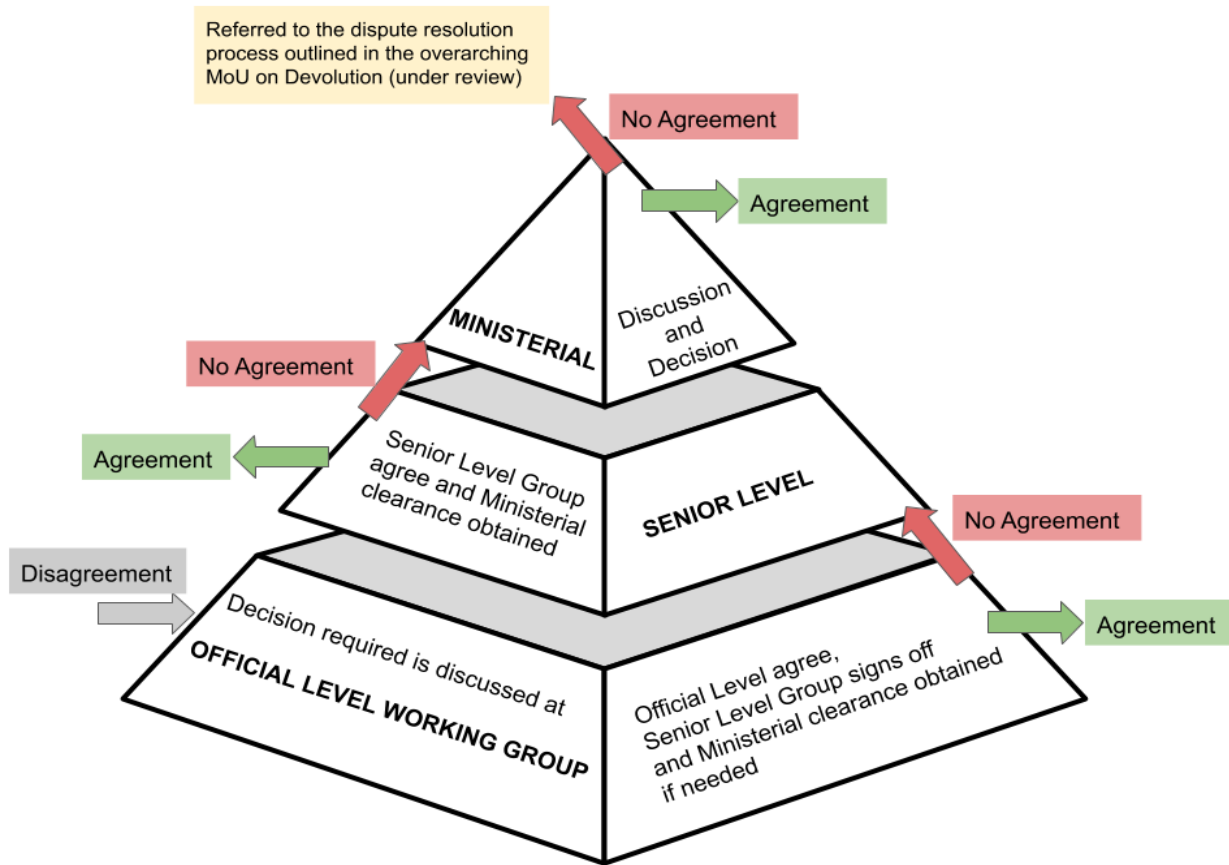


Diagram displaying the dispute resolution process

- 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.

# Concordat between the UK Government, Scottish Government, Welsh Government and the Northern Ireland Executive

## 1. Introduction

This concordat is an agreement between the UK Government, Scottish Government, Welsh Government and Northern Ireland Department of Health providing the non-legislative mechanism which underpins the Food Compositional Standards and Labelling (FCSL) Framework.

Responsibility for delivery of arrangements as set out in the FCSL framework agreement is delegated to the Department for Environment, Food and Rural Affairs (Defra) in England, Food Standards Scotland (FSS) in Scotland, Food Standards Agency (FSA) in Wales and Northern Ireland (the Parties). This Concordat establishes an agreed approach for co-operation between the Parties.

The Concordat is not intended to constitute a legally enforceable contract or create any rights or obligations which are legally enforceable. The concordat respects: devolution settlements; established constitutional conventions and practices; and the overarching appropriate inter-Governmental structures.

This Concordat has been developed in line with the guidance on Common Frameworks principles set out in the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) Communiqué of 16 October 2017<sup>1</sup>. In line with the Devolution MoU, the arrangements set out in this Concordat allow for policy divergence, recognising that there will be instances where it is appropriate for nations in the UK to take different approaches. The agreement remains consistent with the JMC(EN) principles.

This Concordat sets out general provisions in relation to the policy areas described in part 2.

## 2. Scope

The policy area under consideration is food compositional standards and labelling. This encompasses policies and regulations relating to:

- Food information to consumers
- Fish labelling (consumer information and traceability)
- Dairy designations and spreadable fats (labelling elements)
- Caseins and caseinates
- Cocoa & chocolate products
- Coffee extracts & chicory extracts
- Condensed milk and dried milk

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<sup>1</sup>[JMC communiqué of 16 October 2017](#)

- Fruit juices and fruit nectars
- Honey and honey products
- Jam and similar products
- Lot marking
- Natural mineral, spring, and bottled water
- Specified sugar products

The FCSL policy area is covered by a variety of retained EU laws and associated domestic legislation which implements this in the UK. The retained EU laws which intersect with devolved competence and are in scope of the FCSL Framework are listed in Appendix C of the Framework Outline Agreement (FOA).

Changes to the above areas that would be considered in scope of the arrangements set out in the Concordat include:

- Proposals for changes to retained EU law.
- Proposals for new legislation in previously harmonised policy areas of retained EU law.
- Proposals for changes to technical standards in retained EU law.
- Proposals for new technical standards in previously harmonised areas of retained EU law.

Relevant policy areas are governed by harmonised retained EU law. The enforcement of these Regulations is conferred directly to local authorities and powers for enforcement are provided by domestic legislation in each of the four UK nations.

FCSL policy areas fall within the competence of the Scottish Government, Welsh Government and the Northern Ireland Executive by virtue of the devolution settlements.

- The Scotland Act 1998
- The Government of Wales Act 2006 and
- The Northern Ireland Act 1998.

In some circumstances, existing EU legislation provided flexibility for the law to be applied in different ways, such as flexibilities around local enforcement. These flexibilities will be maintained in the FOA; however, the UK Government, Scottish Government, Welsh Government and Northern Ireland Department of Health agree that a level of commonality is beneficial, particularly for those businesses who operate across UK borders, and therefore close collaboration will continue.

Several areas of food compositional standards and labelling, such as the compositional standards of certain meat products, are covered by existing domestic legislative arrangements across each of the nations. Whilst these areas and any related policy changes remain within the direct competence of each nation, any proposed changes to such arrangements should be presented to the FCSL Officials Group for discussion via the joint working process as outlined in this agreement and where possible, agreement across the UK will be sought. These changes however shall not be bound by the formal dispute resolution process.

### 3. Principles for working together

The Parties agree to adhere to the following high-level principles:

#### **Devolution**

The devolution settlements of all nations and the democratic accountability of the devolved governments will be respected, 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; this agreement will provide for full and continuing involvement of the Welsh/Scottish/Northern Ireland Ministers and their officials in the processes of policy formulation, negotiation, and implementation, for issues which touch on devolved matters in accordance with the appropriate inter-Governmental structures.

#### **Collaboration**

Open communications will be maintained, and information shared, to the extent permitted by law, at the earliest appropriate opportunity. This may include but is not confined to: policy issues; stakeholder views; preparations for, and outcomes of, consultations and research; media interest and lines to take; emerging issues and intelligence; local authority or enforcement issues; and food crime. The UK Government, Scottish Government, Welsh Government and Northern Ireland Department of Health agree to respect the dispute resolution process outlined in the FOA when agreement cannot be reached at policy level.

#### **Ministerial decision-making**

All nations will consider advice and evidence available, as appropriate, to provide recommendations and finalise advice prior to informing respective Ministers as appropriate. In Wales and Northern Ireland this work will be conducted by the FSA, and if appropriate will be considered by the FSA Board. In Scotland this work will be conducted by FSS and if appropriate considered by the Food Standards Scotland Board. In England this work will be conducted by Defra. Ministers representing each of the nations will take decisions on changes to all areas of retained EU FCSL law, following recommendations from Officials. This will include both technical changes made through secondary legislation as well as any changes to, or new, primary legislation that fall within scope of this Concordat.

#### **Managing divergence**

The FCSL framework respects the JMC(EN) principles, devolved responsibilities and accountability across the UK. The Parties will work together to develop evidence-based approaches for ensuring wider consumer interests, aiming to have common approaches to FCSL policy.

Within the framework, the Parties maintain their ability to diverge within their territory (having followed the principles set out in the framework for managing divergence) where evidence is clear that divergence is both necessary and proportionate to meet local needs.

Governance arrangements should be effective and proportionate whilst keeping administrative complexity and burdens to a minimum.

This framework will operate transparently: the framework's governance arrangements should be publicly available, and principles for transparency will be built into the framework where appropriate.

For areas within scope of this Concordat, the Parties agree that:

- The Parties should aim to implement policy decisions at approximately the same time.
- All Parties should be informed of the recommendations that will be made in the other nations (whether for common or divergent approaches) and the underpinning rationale once the joint working and/or dispute resolution process is complete.
- A consensus should be sought among the Parties on the anticipated impact of policy changes and the approaches to take, and efforts made to resolve any disputes that occur.
- GB-wide legislation (i.e., UK Government making legislation on behalf of England Scotland and Wales) will only be taken forward where appropriate, where consent has been given from Ministers (as is the case at present) and parliaments as required under respective devolution settlements.

#### 4. Dispute avoidance and resolution mechanism

Ministers will retain the right to make individual decisions for their nation and policy divergence across UK nations will remain possible, in accordance with the Devolution Settlements in each nation. For areas within scope of the framework however a consensus regarding the anticipated impact of a policy change and the approaches to take should first be sought, and efforts made to resolve any disputes.

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

- Policy decisions
- Resolution of issues
- Referring issues to the overarching dispute avoidance and resolution mechanism outlined in the appropriate inter-Governmental structures.
- Reviewing and amending the framework

Policy changes should be considered in scope of this framework, subject to impact assessment / evidence consideration where:

- A Party seeks to make a change or review in an area of returning powers, within scope of the policy areas outlined in Section 2. This includes any changes to requirements, previously set out in retained EU law and implemented separately in national law (but does not include enforcement and execution of retained EU law).
- Harmonised retained EU legislation provides scope for national measures to achieve common outcomes and so divergence is already possible e.g., national rules for curds and mincemeat provided for in regulations relating to Jam and Similar products.
- Different requirements are proposed for establishments within one nation

placing products on the market solely within the territory of that nation (i.e. establishments are based in and supplying the local market only) or

- Different requirements are proposed for products produced in and placed on the market solely within the territory of one nation (i.e. products are produced and consumed exclusively in the local market only).

Policy changes should be considered outside scope of this framework where:

- Provisions relate to the enforcement and execution of retained - EU or other domestic law.

### **Decision-making fora**

The main forum for Official level discussion and decision-making will be the FCSL Officials' Group. Terms of Reference for this Group are set out in Annex B. The role of this Group will be to:

- Function as a forum for all UK nations to examine proposed amendments to, or entirely new legislation in food compositional standards and food labelling.
- Provide the opportunity to review UK wide impacts and whether a policy is appropriate to take forward on a single nation or UK wide basis.
- Provide a co-ordinated UK position on FCSL policy, resulting in clear and consistent messaging for consumers and industry.
- Facilitate multilateral policy development.
- Seek, where agreeable, to develop and agree upon common policy approaches.
- Manage potential divergence in a way that respects the Devolution Settlements.
- Coordinate FSA/FSS Board, parliamentary and stakeholder engagement and communication.
- Review and amend the framework as per the Review & Amendment Mechanism (RAM).
- Escalate issues as per the dispute avoidance and resolution process.

### **Working groups**

Officials will have the ability to bring proposals for policy changes to the FCSL Officials Group. This will be done by providing the Group with a summary of the proposed change and any research and information that they have.

Should this Group decide further work is required on an issue, it will have the ability to set up working groups on a specific proposal, with relevant officials from each government being part of these groups. These working groups can be created at the request of one government to assist in further policy development.

Should these groups be created, they will be required to undertake working level discussions on policy proposals or changes within a timeframe agreed by the FCSL Officials Group.

Following these discussions, the Party proposing these discussions should notify the FCSL Officials Group of the proposed change and should prepare a policy paper on the specific issue under discussion.

This will then be considered by the FCSL Officials Group.

### **Decision making responsibility**

Ministers retain the right to make individual decisions for their governments such as making legislation. Policy divergence across the UK will remain possible, in accordance with the devolved settlements in each nation.

It is anticipated that most routine decisions will be made at Official level, however in some instances Officials may be required to defer decision making to Senior Officials or Ministers. The level of decision-making responsibility required will be assessed on a case-by-case basis and in line with each Party's ordinary working practices including agreeing work and resource planning and obtaining the necessary clearances for proposals. Where decision-making responsibility needs to be escalated, Officials will be responsible for ensuring that this is done in a suitable manner, involving the appropriate individuals, and ensuring that decision makers have access to the full extent of evidence and information.

### **Evidence base**

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 evidence base could be carried out through:

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

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

### **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. If an issue cannot be resolved, Parties will follow the dispute resolution process outlined in section 12 of the FOA.

The intention is to resolve most issues through the FCSL Officials Group including the views of senior officials where necessary, only escalating to Ministers where official level agreement cannot be reached.

Any issues between Parties will be recorded as this may help to inform the RAM process when it is next conducted.

The dispute resolution process should only be utilised if:

- resolution through normal working practices (including managing divergence) has not been possible;
- agreement cannot be reached on the anticipated impact of a policy proposal;
- agreement cannot be reached on a common recommendation regarding an application, request, or policy proposals;
- one or more Party considers the terms of reference/parameters agreed for the governance framework have been breached; or



- one Party considers that a JMC(EN) principle has been broken, or undue weight has been placed on one JMC(EN) principle (or part of a principle) at the expense of another.

This recognises that in some areas commonality of approach will not be needed in order to meet the JMC (EN) Common Frameworks principles and therefore an agreement to diverge would be acceptable.

The intention is for issues to be discussed and resolved at the earliest possible stage. The process will seek to provide opportunities for differences to be resolved at official level wherever possible, therefore reducing the need for escalation.

In such cases where a dispute requires escalation and formal resolution the Party (or Parties) initiating the change should inform the FCSL Officials Group, allowing a reasonable period for the dispute resolution process to be followed.

If required, the FCSL Officials Group will convene the members of any working group Party involved and any other organisation who are party to this framework.

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 official level. However, if required, a senior official from each Party will be nominated to participate in official level dispute resolution meetings. FSA and FSS Board considerations will be included here as appropriate.

When an issue is presented to the FCSL Officials Group, the position of each party in the disagreement will be established, alongside a range of options for resolving the disagreement and criteria for an agreed outcome: These options may include but are not restricted to:

- a request for further mediation at a policy level;
- a request for further evidence to be commissioned; or
- escalation to appropriate Ministers.

Where agreement cannot be reached at official level, senior officials will be invited to join the official level group as appropriate in an effort to reach an agreement. If agreement cannot be reached at senior official level the dispute will be raised to Ministers.

In the event of a dispute being escalated to the Ministerial level, this could be a bilateral discussion between the parties involved in the dispute, or if appropriate a multilateral discussion between ministers from all the administrations involved and any other organisations who are party to this framework agreement, including the responsible Health Ministers.

In each instance, Ministers will consider the evidence gathered during Official level discussions when attempting to reach an agreement on an outcome aimed at resolving the dispute.

Where disputes cannot be solved at ministerial level, they shall be referred to the overarching process for dispute avoidance and resolution as outlined in appropriate

inter-Governmental structures. That shall be used only as a final resort when issues cannot be resolved within framework governance structures.

Diagrams outlining the Joint Working and Dispute Resolution Mechanisms are available within the FOA.

## 5. Review and amendment mechanism

### **Process**

The 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 non-Government Organisations 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.

Following an initial review one year after implementation 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 conclusion of a periodic review and any amendment stages that follow.
- 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.

**Amendment stage**

The amendment stage can only be triggered through unanimous agreement by Ministers. If Parties agree that no amendment is required, the relevant 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.)

- 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.

**6. International obligations**

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 all 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 IR Concordat, and the wider outcomes of the Joint IGR Review, as the basis for such international considerations.

The international obligations that apply to this area are:

**International trade**

EU and third countries will likely be looking for robust assurance on food standards before signing trade deals. The UK will be looking for robust assurance on food standards before signing trade deals with the EU and third countries.

## **International compositional standards & food labelling standards**

This framework is designed to ensure the UK can continue to fulfil international obligations such as Codex and WTO membership.

## **Northern Ireland considerations**

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 FCSL.

- 8 Goods – General provisions
- 29 Food – General
- 31 Food – Ingredients, Traces, Residues, Marketing Standards
- 33 Food – Other

The FOA 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 decision 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 12 of the FOA.

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