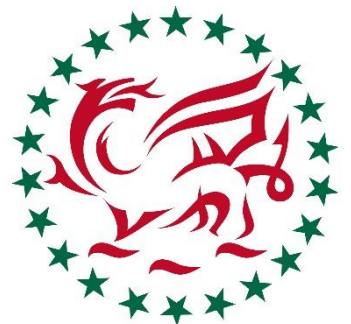




UK common frameworks on agriculture and environment

Wednesday 16th May 2018



CLILC • WLGA

INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. WLGA welcomes this opportunity to feed comments into the Climate Change, Environment and Rural Affairs Committee's inquiry into the issue of common frameworks on agriculture and environment.

GENERAL COMMENTS

4. It is important to state from the outset that during the referendum campaign WLGA was in favour of remaining within the EU. Any new arrangements are unlikely to deliver the same advantages as the UK enjoys as a full member. However, given the decision to leave, like most organisations WLGA can see the benefits of agreeing common frameworks. The UK market is of major significance to businesses in Wales and they would be disadvantaged by the introduction of 'internal' barriers to the movement of goods and services. Likewise, wider international trade would suffer from the introduction of different requirements by each of the devolved administrations.
5. Equally, much environmental legislation relates to features where, because of their very nature, there would be serious practical difficulties trying to operate different regulations and systems either side of a border – e.g. air quality; pollution control; flood prevention.
6. The Welsh (and Scottish) Government have made it clear that any frameworks should not be imposed but should be negotiated and agreed by all governments, respecting the devolution settlements. WLGA supports that position. However, we would go further. Many of the issues under discussion in relation to frameworks will have significant implications for local government – Trading Standards and Animal Health & Welfare services in particular. They are in many cases the bodies responsible for advising farm businesses on compliance issues and for inspection and/or enforcement.

It is therefore equally important that local government has an input in to the development of frameworks.

7. To date discussions have been solely between the UK Government and the Devolved Administrations (DAs). This dialogue needs to be extended so that those in local authorities (LAs) who will have responsibilities under new frameworks are able to influence at this stage critical decisions as to how they will operate. That would be in line with the principles of the Well-being of Future Generations (Wales) Act 2015. Although the UK Government is not subject to this piece of legislation the Welsh Government is. It is therefore *required* to involve stakeholders, to seek integrated approaches in an attempt prevent potential complications emerging at a later date.
8. It is encouraging that the Legislation and Regulation sub-group of the Roundtable established by Lesley Griffiths has now started to plan stakeholder sessions on frameworks. WLGA has offered to help identify specialist officers in LAs who will be able to offer a practitioner viewpoint, based on first-hand experience of administering current systems.
9. For one block of EU laws that intersect with the devolved competence it has been suggested that no further action is required in relation to UK frameworks. In these cases it is believed that the UK Government and the DAs can develop their own arrangements without creating any significant complications. It will still be important, though, that LAs are involved in the development of these arrangements.
10. For another block of 24 topics legislation may be needed to put necessary frameworks in place. These will, therefore, have to be the subject of detailed discussions between governments. Appendix 1 lists these 24 areas. The **final column** of the table explains local government's roles and interests – which are in many cases highly significant. It is essential that these roles are acknowledged and that local government is able to feed into the forward planning and not be presented with a *fait accompli*.
11. Finally, on the first item in the table in Appendix 1, agricultural support is a particularly critical issue for LAs – especially those with a substantial rural population. Whilst a consultation on a UK Shared Prosperity Fund is planned later this year our understanding is that this will be the main source of replacement funding for EU Structural Funds (ERDF in particular) and thus will not cover rural development. Whilst commitments have been made by UK Government in relation to direct payments to farmers, no similar guarantees

have been given to date in relation to Rural Development Programme funding. These guarantees need to be made as soon as possible to enable forward planning.

COMMENTS ON SPECIFIC QUESTIONS

In which policy areas, within the remit of the Climate Change, Environment and Rural Affairs Committee, are legislative and non-legislative common frameworks needed? and;

Does the provisional assessment published by the UK Government set out an appropriate approach and is it complete? Do you have any specific concerns about the proposed categorisation?

12. Identification of all the areas that intersect with devolved competences, and where common frameworks may be needed, is a major and complex undertaking that requires legal input. WLGA is not resourced to investigate all the various possibilities and has to accept that the UK and Welsh Governments between them will work this through. However, there has to be the possibility that frameworks will need to be developed in some cases where, initially, they were thought unnecessary. Likewise, where it was thought legal frameworks *would* be required, after further investigation it may be decided that they are *not*.
13. Time is a significant factor and, in the rush to sort this out, it would be surprising if everything was identified correctly first time. Inevitably, there will be reflection over time in light of experience. Involvement of key stakeholders such as LAs from the earliest stage will help to limit the number of false starts – and mis-categorisations - that are made.

How should both the legislative and non-legislative frameworks be developed and implemented?

14. As the comments above suggest, it will be vitally important that frameworks are developed and implemented in partnership with all relevant stakeholders. This should *not* be a case of governments working together to agree a consultation document and then seeking views. It needs active involvement of these stakeholders in working groups charged with the development of the frameworks. From a local government

perspective the WLGA can help to manage this process, identifying individuals who can make a meaningful contribution.

15. Those who will be *subject to* new frameworks should also be considered as stakeholders – involvement should not be limited solely to those responsible for drawing frameworks up and then implementing /enforcing them. Again, LAs can assist by drawing in relevant organisations and bodies they have contact with on a regular, operational basis.
16. There will doubtless be concerns about delays if too many stakeholders have to be engaged. However, it is important to focus on making good decisions, not simply quick decisions. Experience has shown that more work and involvement 'upstream' produces better, more sustainable outcomes 'downstream'– with a greater sense of ownership.

How prescriptive should the common frameworks be and how much discretion should each administration have within the frameworks?

17. As a general rule, frameworks should have sufficient prescription to give certainty to those who have to operate within them. The best way to achieve this is through involvement of key players during the development stage, so that thinking can be 'road tested' before being formalised.
18. The frameworks also need to be flexible enough to accommodate differences between the nations of the UK. Devolution has resulted in divergence of policies and legislation. Frameworks should seek to work with these differences and allow a degree of discretion, not to standardise. That suggests that frameworks should be kept fairly broad, with a degree of latitude, and not seek to specify down to a fine degree.

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APPENDIX 1 – ASSESSMENT OF THE AREAS OF EU LAW THAT INTERSECT WITH DEVOLVED COMPETENCE IN WALES – LOCAL GOVERNMENT PERSPECTIVE

The 24 policy areas to be subject to more detailed discussion to explore whether legislative common framework arrangements might be needed, in whole or in part – local government's interest/role

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - what the EU law does	Local government interest / role
		NI	S	W		
DEFRA	Agricultural support	x	x	x	Policies and Regulations under the EU Common Agricultural Policy covering Pillar 1 (income and market support); Pillar 2 (rural growth, agri-environment, agricultural productivity grants or services and organic conversion and maintenance grants); and cross-cutting issues, including cross compliance, finance & controls.	<ul style="list-style-type: none"> Pillar 1 support for farmers is an important source of income for the local economy and for wider well-being in rural LAs LAs have been important players in relation to Pillar 2 and the Rural Development Programme e.g. they act as Lead Bodies for the LEADER Local Action Groups in most cases and they lead on a number of projects within a number of RDP Schemes
DEFRA	Agriculture - fertiliser regulations	x	x	x	Regulations providing common standards for compositional ingredients, labelling, packaging, sampling and analysis of fertilisers. The UK is also signed up to a number of international agreements (e.g. the Gothenburg Protocol) and EU agreements (the National Ceilings Directive) related to fertiliser regulation.	<ul style="list-style-type: none"> Local authorities and Animal Medicines Inspectorate enforce legislation by inspecting feed and fertilisers manufacturers and suppliers, taking samples for analysis and providing advice to businesses and consumers.
DEFRA	Agriculture - GMO marketing and cultivation	x	x	x	Standards for marketing and cultivation of genetically modified organisms.	<ul style="list-style-type: none"> Local authorities undertake sampling and transfer data via the UK Food Surveillance System (UKFSS). They also undertake enforcement work
DEFRA	Agriculture – organic farming	x	x	x	Regulations setting out standards for organic production certification.	<ul style="list-style-type: none"> Local authorities have a potential interest via LA farms - agricultural units owned by an LA and rented out to farmers (in March 2014, they provided 1,022 smallholdings, covering an area of over 18,000 ha)¹ LAs ensure honest and accurate descriptions of 'organic' or other business claims
DEFRA	Agriculture - zootech	x	x	x	EU legislation providing a common framework of rules on breeding and trade in pedigree animals and germinal	

¹ <http://www.assembly.wales/Research%20Documents/Local%20Authority%20Farms%20in%20Wales/16-035-Web-English.pdf>

					products in the EU and the treatment of imports from 3rd countries. Each of the UK regions has competent authorities in their areas for recognition of breed societies under this legislation.	
DEFRA	Animal health and traceability	x	x	x	EU rules and standards that aim to maintain animal health and allow their movement, including policies covering: prevention of disease (entering UK), control of disease (endemic and exotic), surveillance (for exotic disease) movement of livestock, pet passports and veterinary medicines.	<ul style="list-style-type: none"> Trading Standards officers have a range of responsibilities in relation to animal health and welfare Trading Standards are one of the lead agencies during disease outbreak situations
DEFRA	Animal welfare	x	x	x	EU rules relating to aspects of animal welfare including on-farm issues, movement of livestock and slaughter.	<ul style="list-style-type: none"> Trading Standards officers have a range of responsibilities in relation to animal health and welfare including advice, inspection and enforcement
HSE and DEFRA	Chemicals regulation (including pesticides)	x*	x*	x*	EU regulations on the classification, labelling and packaging of substances and mixtures (CLP); the placing on the market and use of biocidal products (e.g. rodenticides); the export and import of hazardous chemicals; the registration, evaluation, authorisation and restriction of chemicals (REACH); and plant protection products (e.g. pesticides).	<ul style="list-style-type: none"> The CLP is enforced by HSE and LA Trading Standards departments
DHSC	Elements of reciprocal healthcare	x*	x*	x*	Regulations 1408/71 and 883/2004 are the main pieces of EU legislation providing for reciprocal healthcare.	
DEFRA	Environmental quality - chemicals	x*	x*	x*	Regulation of the manufacture, authorisation and sale and use of chemical products primarily through the REACH regulation but also including: Persistent Organic Pollutants (POPs), Polychlorinated Biphenyls (PCBs) and Minamata.	<ul style="list-style-type: none"> Whilst HSE is the competent body for the Registration, Evaluation and Authorisation of Chemicals (REACH) regulation, LA Trading Standards departments are responsible for consumer protection issues.
DEFRA	Environmental quality - ozone depleting substances and F-gases	x	x	x	The UK has international obligations under the Montreal Protocol to phase out the use of ODS, phase down hydrofluorocarbons by 85% by 2036, licence imports and exports and report on usage to the UN. EU Regulations and institutions currently deliver these obligations through quota restrictions, licencing and reporting requirements. The EU Regulations also go further with product bans, leakage controls measures and certification requirements for technicians.	<ul style="list-style-type: none"> In relation to ODS in Wales, the UK Regulations make provision for enforcement powers to be exercised by the Welsh Ministers, Natural Resources Wales, <u>Local Authorities</u>, and Port Health Authorities.

DEFRA	Environmental quality - pesticides	x	x	x	Regulations governing the authorisation and use of pesticide products and the maximum residue levels in food, and a framework for action on sustainable use of pesticides.	<ul style="list-style-type: none"> Responsibility for enforcement of pesticide regulations is shared between the Health and Safety Executive (HSE), <u>local authorities</u> and the Agriculture Departments.
DEFRA	Environmental quality - waste packaging and product regulations	x	x	x	Policies and Regulations that aim to meet certain essential product requirements and set product standards including for packaging (e.g. ROHS in Electrical and Electronic Equipment, Batteries and Vehicles) in order to manage waste.	<ul style="list-style-type: none"> Local authorities are responsible for household and business waste collection services, waste disposal, enforcing waste legislation, dealing with fly-tipping, and encouraging good waste management (including recycling, compliance with WEEE regs etc) in their areas.
DEFRA	Fisheries management & support	x	x	x	Policies and Regulations relating to rules relating to the sustainability of fisheries (quotas), access to waters, conservation measures, enforcement and financial support.	<ul style="list-style-type: none"> LAs have a variety of relevant roles in relation to water quality, Marine Protected Areas, biodiversity etc. They are also the Lead Bodies for the Fisheries Local Action Groups in most cases under the current EMFF
Food Standards Agency	Food and feed safety and hygiene law (food and feed safety and hygiene law, and the controls that verify compliance with food and feed law (official controls)	x	x	x	EU regulations laying down the general principles and requirements of food and feed safety and hygiene; food and feed law enforcement (official controls); food safety labelling; risk analysis; and incident handling. The regulations set out an overarching and coherent framework for the development of food and feed legislation and lay down general principles, requirements and procedures that underpin decision making in matters of food and feed safety, covering all stages of food and feed production and distribution.	<ul style="list-style-type: none"> LA Trading Standards departments are major players in relation to food safety, working alongside the Food Standards Agency. Roles include registration, statutory food hygiene ratings and wider inspection, enforcement and prosecution duties
DEFRA	Food compositional standards	x	x	x	Minimum standards for a range of specific food commodities such as sugars, coffee, honey, caseins, condensed milk, chocolate, jams, fruit juices and bottled water.	<ul style="list-style-type: none"> Trading Standards Service take samples of foods for analysis and testing for composition, quality and accuracy of the labelling. Specialist officers also provide advice and guidance to local businesses on the composition and labelling of their products. Also inspection, enforcement and prosecution duties
DEFRA	Food labelling	x	x	x	Regulations setting out requirements on provision of information to consumers on food labels.	<ul style="list-style-type: none"> As above
MHCLG	Hazardous substances planning	x	x	x	Elements of the Seveso III Directive relate to land-use planning, including: planning controls relating to the storage of hazardous substances and handling development proposals for hazardous establishments.	<ul style="list-style-type: none"> The local planning authority is generally the hazardous substances authority for their area and they work closely with the HSE

						<ul style="list-style-type: none"> • LAs develop contingency plans for major incidents, contamination, evacuation, mass fatalities etc
BEIS	Implementation of EU Emissions Trading System	x	x	x	Directives 2003/87/EC establishes the European Union Emissions Trading Scheme for greenhouse gas. The Scheme sets a maximum amount of greenhouse gas that can be emitted by all participating installations and aircrafts; these operators then monitor, verify and report their emissions, and must surrender allowances equivalent to their emissions annually. Allowances are issued either by being sold at auction or allocated for free to some operators, and can be traded, with the price determined by the market.	
BEIS (DHSC, MHCLG, DEFRA, DfE and MoJ also have interest)	Mutual recognition of professional qualifications (MRPQ)	x*	x*	x*	Directives that create systems for the recognition for professional qualifications and professional experience throughout the EU. Allowing EU professionals to work in regulated professions in other EU states on either a permanent or temporary basis.	<ul style="list-style-type: none"> • LAs employ a range of professions including some, such as architects, which could be affected by changes to mutual recognition of qualifications
DHSC	Nutrition health claims, composition and labelling	x	x	x	Including Regulations and Directives on the nutrition and health claims made on food; food for special medical purposes and weight control; food intended for infants; the addition of vitamins and other substances to food; and food supplements.	<ul style="list-style-type: none"> • LAs' Trading Standards Services lead on advice and enforcement • As for food compositional standards above
DEFRA	Plant health, seeds and propagating material	x	x	x	Requirements in relation to the import and internal EU movement of plants and plant products, risk assessment of new plant pests and outbreak management. Assurance and auditing of policies across the UK to protect plant biosecurity. Requirements for plant variety rights, registration of plant varieties and quality assurance of marketed seed and propagating material.	
Cabinet Office	Public procurement	x*	x*	x*	The regime provided by the EU procurement Directives, covering public procurement contracts for supplies, services, works and concessions above certain financial thresholds awarded by the public sector and by utilities operating in the energy, water, transport and postal services sectors (Directives 2014/24/EU, 2014/25/EU and 2014/23/EU).	<ul style="list-style-type: none"> • Local authorities spent £3.3bn through procurement in 2015/16 – over half the total procurement by public bodies²

² <http://www.assembly.wales/laid%20documents/agr-ld11235/agr-ld11235-e.pdf>

BEIS	Services Directive	x*	x*	x*	Directive that seeks to realise the full potential of services markets in Europe by removing legal and administrative barriers to trade by increasing transparency and making it easier for businesses and consumers to provide or use services in the EU Single Market.	<ul style="list-style-type: none"> As above – local authorities engage in the procurement of services as part of their overall procurement