

Finance and Constitution Committee Debate: Common Frameworks

The briefing sets out the importance of basing common frameworks between the UK Government and devolved administrations on shared environmental principles.

Summary

- Currently 80% of our environmental protections in the UK stem from EU law and institutions. The loss of common EU standards, as a result of the UK's exit from the EU, could potentially compromise the transition of Scotland and the UK towards a low carbon, sustainable society through a race to the bottom on environmental standards.
- A collaborative and joint approach, which respects the devolution settlements in the UK, is needed to ensure that environmental standards are protected and enhanced. Ambitious common environmental standards would ensure that there is no drive towards environmentally damaging competitive deregulation in any part of the UK.
- Frameworks should be based on existing EU legislation act, which should act as a common baseline on top of which individual countries can pursue more ambitious standards.
- The process should be based on robust evidence and data, including impact assessments and scenario development adapted for relevant policy areas.
- The process should also provide ample opportunities for meaningful stakeholder engagement and input across the UK countries.
- It would also be critical to understand how any such frameworks would interact with the provisions of any trade legislation with other countries, international agreements as well as the final exit agreement with the EU and future relationship with EU countries.

Introduction

Scottish Environment LINK is the forum for Scotland's voluntary environment community, with over 35 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society.

Finance and Constitution Committee Report on Common Frameworks

LINK welcomes the Committee's report, which we consider to be a substantive piece of work on this important topic. We were pleased to see a number of LINK's recommendations and concerns – from

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our written and oral submissions to the inquiry - reflected in the report. We hope that the conclusions will be used to inform future policy decisions and frame future discussions with the UK and devolved administrations on developing common frameworks.

LINK particularly supports the following key findings and recommendations:

188. Whatever the terms of any UK exit from the EU, common frameworks will be required over the longer term, to deliver common policy and regulatory approaches in some areas currently governed by the EU.

LINK and its members have been clear that, given 80% of our environmental protections in the UK stem from EU law and institutions, the loss of common frameworks provided by the EU is potentially significant. Nature and environmental challenges cross borders and robust approaches to tackling the twin climate and nature emergencies will require coordination and collaboration both across the UK and with other countries, regardless of the future EU-UK relationship.

189. A robust and trusted process of intergovernmental relations (especially dispute resolution) is also vital to agreement making.

LINK has also been clear that in order to be effective in tackling shared environmental challenges, any shared or common environmental frameworks must respect the different devolution settlements of the UK and must be jointly developed and agreed. This means that all concerned governments need to have an equal say in the process and the relevant parliaments need to be involved in a meaningful way, requiring robust intergovernmental and interparliamentary processes.

190. Parliament and stakeholders have an important role in contributing to and scrutinising common frameworks. We recommend that Parliament has a formal role in relation to the process for developing, agreeing and implementing both legislative and non-legislative common frameworks.

We are pleased that the Committee has recognised the crucial role of stakeholder engagement in the development of common frameworks. LINK has strongly advocated for meaningful stakeholder engagement and input into this process across the UK countries.

Environmental Principles and Governance

LINK also welcomed a number of positive recommendations relating to Environmental Principles and Governance. Whilst this issue is being progressed by the Scottish Government and scrutinised primarily by the Environment Climate Change and Land Reform Committee, LINK would like to highlight the following points from the report:

42. Given the different approaches to environmental principles being proposed by the UK and Scottish Governments, we seek clarification from the Scottish Government as to whether this represents a common framework where the Governments have agreed to policy divergence, and if not, what impact two sets of different environmental principles will mean for common frameworks.

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It is LINK's understanding that environmental principles are not included in the common frameworks process occurring between the Cabinet Office and devolved administrations, but are being discussed by the four administrations in a separate process. LINK agrees that further clarification is needed regarding whether there will be different sets of principles being applied in each of the UK countries and cautions on the ecological implications of divergence between UK countries. For example, if one country on the island of GB applies the principle of preventative action on invasive non-native species less stringently than others, it will increase invasion risks in those other countries. The full environmental implications of any divergence must be adequately considered and managed.

167. Given any monitoring bodies will require to endure across successive government we seek clarification from the Scottish Government that any new Scottish agencies or changes to existing agencies' functions will be set out in legislation.

LINK strongly supports the conclusion that any new Scottish governance bodies should be underpinned by legislation in order to safeguard their resourcing and powers from successive governments. LINK therefore welcomes the Scottish Government's announcement in the 2019 Programme for Government that they plan to include any legislative measures required to maintain effective and proportionate environmental governance in a Continuity Bill, and look forward to more detailed proposals. LINK maintains that, in the event of an EU exit, we will urgently require a new Scottish Environment Watchdog, underpinned by law, to perform scrutiny and enforcement of environment protections. This was supported by over 22,000 members of the public in May 2019.¹

Progress since the Committee's report

It appears that some significant progress is being made on developing common frameworks since the Committee's report was published in March 2019. It is LINK's understanding that the Cabinet Office and devolved administrations are progressing a 5 Phase approach to developing common frameworks across a number of areas relating to the environment.² We are pleased that substantial work is underway and that Phase Three will involve stakeholder engagement and consultation.

LINK maintains that it is vital these frameworks are shaped and designed in a transparent, open and expertly informed manner, and we look forward to commenting on more detailed proposals in due course as part of the Phase Three engagement. We would caution that, given the increased risk of a No Deal exit, it is imperative that this work progresses swiftly – as far as we are aware no detailed proposals for common frameworks have yet been published.

Further information on this topic can be found here:

- [Scottish Environment LINK submission to the Finance and Constitution Committee on common frameworks](#)
- [RSPB Scotland submission to the Finance and Constitution Committee on Common Frameworks](#)

¹ <https://www.fightforscotlandsnature.scot/news/over-22000-people-demand-a-scottish-environment-act/>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814326/Frameworks_Products_Update_.pdf

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- [Scottish Environment LINK submission to the Environment, Climate Change and Land Reform Committee on possible common/shared frameworks and related issues](#)
- [Scottish Environment LINK submission to call for evidence on the impact of the European Union \(Withdrawal\) Bill upon the devolution settlement and the expected legislative consent memorandum](#)
- [Greener UK briefing on Brexit and Devolution: implications for intra-environmental governance](#)
- [Institute for Government report on Devolution after Brexit: Managing the environment, agriculture and fisheries](#)

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