

**In relation to Attachment A**

[REDACTED]

Many thanks for your continuing work on this and for this clear paper. I've tracked some small points and one or two questions.

Is it worth including your estimates of the core resource required just to give others a sense of what we envisage, recognising that we're guessing to some extent?

Please go ahead with setting up the meeting to discuss issues in the paper and the parliamentary angle as suggested. Cast list looks right.

Scott

**SCOTT WIGHTMAN**

Director for External Affairs

Scottish Government, Victoria Quay (Area 2H South)  
Leith, Edinburgh, EH6 6QQ

[REDACTED]

@Scott\_Wightman1 @scotland @scotgov



**From:** [REDACTED]

**Sent:** 09 October 2020 15:10

**To:** Wightman S (Scott) <[Scott.Wightman@gov.scot](mailto:Scott.Wightman@gov.scot)>

**Cc:** [REDACTED]

**Subject:** EU Alignment

Scott

[REDACTED]

It is also likely to be resource intensive. You'll note references to a 'core team' acting as a form of secretariat to co-ordinate this task. Resources required for this are inevitably a bit of an educated guess – [REDACTED] and I have discussed and think that initially 1.5 B band staff and up to 0.5 of a C band resource would be sensible – though it may be that over time, as the process settles down, guidance becomes more static, and the implications of developments in areas such as the UKIM become clearer, this could be revised downwards. That core team could sit either in DEXA or EUD. An argument for it sitting in EUD is that co-ordinating effort is closer to those 'boots on the ground' who are doing the active engagement in key pieces of legislation. Almost the opposite argument stands for it sitting in DEXA – i.e. that the DEXA team would be able to stand back from potentially-competing 'boots on the ground' work and focus solely on the co-ordinating effort of ensuring all components of the system are working properly together and meeting Ministerial objectives.

Clearly, the second option, Model B, will require less resource, and though there is a reference to a 'core team' still as one which ensures consistency of advice to Ministers, etc. in reality this could be merely part of the function of one person in an existing role.

[REDACTED].

**Separate email 1**

**From:** [REDACTED]  
**Sent:** 02 September 2020 17:23  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Alignment with EU law – practical considerations

[REDACTED]

Many thanks for this. It's a really good and helpful document. A few thoughts to start the discussion going:

- i) [REDACTED]
- ii) [REDACTED]
- iii) [REDACTED]
- iv) [REDACTED]
- v) [REDACTED]
- vi) The excel document that will be the master spreadsheet won't open for me, which in itself isn't important but it may be better to replace embedded documents with an erdm link

In addition to views from colleagues on the process, it would be helpful to get early views on roles in EUD and DEXA (which I'm assuming would be on [REDACTED] side) fairly soon to ensure that resources are in place in time for January. I see you've made a helpful starter for 10 on what that would look like at the end of the document, thank you.

[REDACTED]

**From:** [REDACTED]  
**Sent:** 28 August 2020 16:30  
**To:** [REDACTED]  
**Subject:** Alignment with EU law - practical considerations

Afternoon all

With apologies for being later with this than anticipated (I've been drawn into a lot of preparations for the Continuity Bill recently), please see attached paper which attempts to address the practical and process challenges of how we will manage and put some governance around decisions of whether to align with EU legal acts or not. Note that there are a couple of embedded documents in it too.

[REDACTED], I have tried (honestly!) not to make it too much of a cottage industry – but the stark reality is that faced with over 2,000 new EU legal acts every year, we do need to have some sort of robust process [REDACTED]. So, it is quite process-y. And, though I hate myself for even suggesting it, there's an impact assessment –

though you will at least see that I have tried to keep that proportionate, so that it is only in the circumstances where we are either proposing not to align (despite there being no legal, constitutional or FTA impediment to doing so), or where we are proposing to align, but that we have identified likely significant impacts of this, that a full assessment is to be carried out.

Very much a starter for ten / discussion piece – I always find it's easier to tear an idea apart than it is to try to fill a blank sheet of paper – so please do feel free to do that to this, I'm keen that we get the best structure in place that we can around this.

[REDACTED]

### **Separate email 2**

**From:** [REDACTED]  
**Sent:** 09 October 2020 14:57  
**To:** [REDACTED]  
**RE: Alignment**

Thanks [REDACTED]

[REDACTED]

**From:** [REDACTED]  
**Sent:** 09 October 2020 14:53  
**To:** [REDACTED]  
**Subject:** RE: Alignment

[REDACTED]

I'm happy for this to go to Scott – thanks.

[REDACTED]

**From:** [REDACTED]  
**Sent:** 09 October 2020 14:14  
**To:** [REDACTED]  
**Subject:** RE: Alignment

Thanks [REDACTED] – a short add in red to address this. [REDACTED] – any comments before I send to Scott?

[REDACTED]

**From:** [REDACTED]  
**Sent:** 08 October 2020 16:54  
**To:** [REDACTED]  
**Subject:** Alignment  
**Importance:** High

[REDACTED] / [REDACTED]

A slightly updated version of the paper attached. I've put a lot of what we discussed this morning into a draft cover note to Scott below, rather than the paper itself, with the intention that the paper could be used as the basis for conversation with Directors, but that much of below is really for Scott to think about first.

Let me know what you think

[REDACTED]

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Scott

[REDACTED]

It is also likely to be resource intensive. You'll note references to a 'core team' acting as a form of secretariat to co-ordinate this task. Resources required for this are inevitably a bit of an educated guess – [REDACTED], [REDACTED] and I have discussed and think that initially 1.5 B band staff and up to 0.5 of a C band resource would be sensible – though it may be that over time, as the process settles down, guidance becomes more static, **and the implications of developments such as on the UKIM become clearer**, this could be revised downwards. That core team could sit either in DEXA or EUD. An argument for it sitting in EUD is that co-ordinating effort is closer to those 'boots on the ground' who are doing the active engagement in key pieces of legislation. Almost the opposite argument stands for it sitting in DEXA – i.e. that the DEXA team would be able to stand back from potentially-competing 'boots on the ground' work and focus solely on the co-ordinating effort of ensuring all components of the system are working properly together and meeting Ministerial objectives.

Clearly, the second option will require less resource, and though there is a reference to a 'core team' still as one which ensures consistency of advice to Ministers, etc. in reality this could be merely part of the function of one person in an existing role.

[REDACTED].

### **Separate email 3**

**From:** [REDACTED]  
**Sent:** 10 November 2020 11:33  
**To:** [REDACTED]  
**Subject:** Alignment etc B band

Thanks [REDACTED]

**From:** [REDACTED]  
**Sent:** 10 November 2020 11:26  
**To:** [REDACTED]  
**Subject:** RE: Alignment etc B band

Hi [REDACTED],

[REDACTED].

I don't have any real issues with any of it but it may be difficult to sell the replacement for JMC(E) to EU Directorate and the Committee liaison to [REDACTED]! And I suspect [REDACTED] will want to keep the former. Just not sure it makes sense...

[REDACTED].

[REDACTED]

**From:** [REDACTED]  
**Sent:** 10 November 2020 11:05  
**To:** [REDACTED]  
**Subject:** RE: Alignment etc B band

**A/R**

**Before I talk to [REDACTED] and [REDACTED] in this, any thoughts pl on this rather more boiled down list? We can obv revisit after Thursday but v keen to get a b band recruited.. Yellow may be most contentious but less for you guys..**

**Ta**

[REDACTED]

**Principal tasks/roles for [REDACTED] and his team, 17/11/20- March 2021**

- Alignment with EU law: 1 updating overall policy in light of the Continuity Bill/Act; establishing and operating SG processes; advising colleagues (approx 50% of team's time)  
2 with Brussels colleagues, preparing first report on proposed use of the CA powers (25%)
- Infractions, transpositions – advice to colleagues, fire-fighting, final report to parliament on performance (10%)
- Engagement with Scottish based stakeholders on EU matters – COSLA, European Movement etc (5%)

[REDACTED]

**From:** [REDACTED]  
**Sent:** 06 November 2020 11:49  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Alignment etc B band

Hi [REDACTED]

I think you're right in the sense that it will be for individual policy areas to lead on making decisions about alignment in their portfolio areas. We're currently thinking, though, that there is probably a need for more central infrastructure around that process to replace functions lost that UKG provide in terms of monitoring developments in EU law and transposition requirements, and also to reflect that in the absence of a legal duty to transpose, there will be a lot more nuanced policy consideration, and a central co-ordination and 'challenge' function might be needed. [REDACTED] and of taking a power to align through the Continuity Bill.

[REDACTED]

**From:** [REDACTED]  
**Sent:** 06 November 2020 11:40  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Alignment etc B band

Sorry all haven't had the chance to consider or respond to this before now.

Thanks [REDACTED]  
and [REDACTED] - I agree these are the priorities as I would see them (excusing any rustiness on my support and guidance from DEXA and SGLD. That is consistent with our responsibility toward obs and infractions and how others will consider alignment. We are there to support and guide but others must apply the principles and guidance to their own circumstances, we can't do that for them.

From a resourcing perspective though this list is everything my team did previously and **exceeds a part time C1 and a single B2's capacity to resource**. Especially if we add a project management aspect to that as well.



[REDACTED]

**From:** [REDACTED]  
**Sent:** 06 November 2020 10:34  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Alignment etc B band

Here are the main functions identified by [REDACTED] and I earlier in the year, with a few additional comments from me:

- Work taking forward the actions in the EU's Strategic Agenda, proactive engagement plan to ensure priorities align with Presidencies, CWPs, Hub priorities etc
- Resumes responsibility for the day-to-day of alignment policy (e.g. providing advice to the likes of energy efficiency colleagues, Marine colleagues, contributing to Cabinet Paper on programmes, etc.)
- Takes forward the **practical operation of the KP power** from the new year.

[REDACTED]

**From:** [REDACTED]  
**Sent:** 03 November 2020 09:54  
**To:** [REDACTED]  
**Cc:** REDACTED]

**Subject:** Alignment etc B band

Hi folks ([REDACTED] – [REDACTED])

As you know, we need to get on with recruiting some support for the alignment work to which [REDACTED] returns in a couple of weeks. Grateful for your help in shaping this.

As a starter for 10 here are [REDACTED] and [REDACTED] key objectives. Rereading them this morning I am not sure many are still relevant to this new situation. Really grateful for suggestions as to the key tasks which shd be there instead- I recall [REDACTED] you had sent me a wee list a few weeks ago of how you and [REDACTED] had envisaged the work panning out.

[REDACTED] it'd be good to catch up in any event, including on the "project team" idea floated at last week's DD discussion. When wd be a good moment?

Thanks – happy to discuss  
[REDACTED]