

An exemption applies

Section 38(1)(b) – personal data of a third party

An exemption under section 38(1)(b) of FOISA (personal information) applies to a small amount of the information requested because it is personal data of a third party, ie names and contact details of junior officials and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exemption is not subject to the ‘public interest test’, so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

An exemption applies, subject to the public interest test

Section 29(1)(a) – formulation or development of government policy

An exemption under section 29(1)(a) of FOISA (formulation or development of government policy) applies to some of the information requested because it relates to the formulation of the Scottish Government’s policy on Common Frameworks.

This exemption is subject to the ‘public interest test’. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in high quality policy and decision-making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether the discussions on Common Frameworks will be disclosed in the near future, when it may undermine or constrain the Government’s view on that policy while it is still under discussion and development.

Section 30(b)(ii) – free and frank exchange of views for the purposes of deliberation and Section 30(c) – effective conduct of public affairs

An exemption under section 30(b)(ii) (free and frank exchange of views) and section 30(c) (effective conduct of public affairs) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views for the purposes of deliberation and prejudice the effective conduct of public affairs. This exemption recognises the need for Ministers and officials to have a private space within which to discuss and explore options before the Scottish Government reaches a settled public view. Disclosing the content of free and frank discussions between the UK Government and Devolved Administrations on Common Frameworks, [UK-EU relations,] immigration and EU exit operations will substantially inhibit such

discussions in the future and would be likely to prejudice substantially the effective conduct of public affairs, particularly because discussions on these matters are still ongoing.

These exemptions are subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing Ministers and officials a private space within which to explore and refine the Government's position until the Government as a whole can adopt a policy that is sound and likely to be effective. This private thinking space is essential to enable all options to be properly considered, so that good policy decisions can be taken. Premature disclosure is likely to undermine the full and frank discussion of issues between Ministers and officials, which in turn will undermine the quality of the policy making process, which would not be in the public interest.

Section 33(2)(b) – financial interests of a UK administration

An exemption under section 33(2)(b) (financial interests of a UK administration) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, prejudice substantially the financial interests of the Scottish Government in relation to the installation of a Border Control Post at Cairnryan.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, since discussions regarding the installation and funding of a Border Control Post at Cairnryan are ongoing, there is a greater public interest in withholding this information.

INFORMATION REQUESTED

Details of Meetings between Angus Robertson, Cabinet Secretary for the Constitution, External Affairs and Culture and UK Government representatives

Date	Type	UK Government	Other attendees
16-Jun-21	Ministerial Meeting	Chris Philip MP, Minister for Immigration Compliance and Justice	Shona Robison, Cabinet Secretary for Social Justice, Housing and Local Government
18-Jun-21	Ministerial	UKG COVID Operations	Oliver Dowden MP Matt Hancock MP Kevin Foster MP
01-Jul-21	EU Exit Operations (XO) Committee	Lord Frost CMG, Minister of State at the Cabinet Office	[Redacted]
07-Jul-21	Ministerial	UKG Chloe Smith MP - Common Frameworks	Donald Cameron [Redacted]
04 August 21	Ministerial Meeting	Lord Frost CMG, Minister of State at the Cabinet Office	Sarah Adcock Martin Johnson Frank Strang [Redacted] Stuart Nicolson
06-Sep-21	Ministerial	Meeting with the Minister for Afghan Resettlement, Victoria Atkins MP and Minister for Communities, Lord Stephen Greenhalgh	[Redacted] Robert Marshall [Redacted]
08-Sep-21	Ministerial Quad	Ministerial Quadrilateral Meeting on Common Frameworks – UK Government Chloe Smith MP	Declan Kearney MLA Mick Antoniw MS

Where we hold a minute of a meeting, it has been included in Annex B.

Details of Correspondence between Angus Robertson, Cabinet Secretary for the Constitution, External Affairs and Culture and representatives of the UK Government

Date	Type	UK Government
No date	Text Message Conversation	Rt Hon Lord David Frost, Minister of State at the Cabinet Office
19-May-21	Text Message Conversation	Rt Hon Michael Gove, Chancellor of the Duchy of Lancaster
26-May-21	Outgoing	Rt Hon Priti Patel MP, Home Secretary
27-May-21	Outgoing	Lord Frost CMG, Minister of State
27-May-21	Incoming	Lord Frost CMG, Minister of State
08-Jun-21	Incoming	Lord True CBE, Minister of State
14-Jun-21	Incoming	Lord Frost CMG, Minister of State
15-Jun-21	Outgoing	Dominic Raab MP, Secretary of State for Foreign, Commonwealth and Development Affairs
23-Jun-21	Incoming	Chloe Smith MP, Minister of State for the Constitution and Devolution
Reply to letter of 23-Jun-21	Outgoing	Chloe Smith MP, Minister of State for the Constitution and Devolution
30-Jun-21	Outgoing	Lord True CBE, Minister of State
12-Jul-21	Outgoing	Chloe Smith MP, Minister of State for the Constitution and Devolution
27-Jul-21	Incoming	Chloe Smith MP, Minister of State for the Constitution and Devolution

06-Aug-21	Outgoing	Lord Frost, Minister of State at the Cabinet Office
12-Aug-21	Outgoing	Chloe Smith MP, Minister of State for the Constitution and Devolution
26-Aug-21	Outgoing	Oliver Dowden MP, Secretary of State for Digital, Culture, Media and Sport

Copies of this correspondence have been included in Annex C.

MEETING MINUTES

ANNEX B

16 June 2021

Note – Cab Sec CEAC meeting with UK Government Minister for Immigration Compliance and Justice

[Redacted]

1 July 2021

**EU Exit Operations (XO) Committee
Lord Frost CMG, Minister of State at the Cabinet Office**

[Redacted]

04 August 2021

Mr Robertson – Lord Frost introductory call

[Redacted]

6 September 2021

**Meeting with the Minister for Afghan Resettlement, Victoria Atkins MP and
Minister for Communities, Lord Stephen Greenhalgh**

[Redacted]

8 September 2021

Ministerial Quadrilateral Meeting on Common Frameworks

[Redacted]

CORRESPONDENCE

ANNEX C

Text message conversation with Rt Hon Michael Gove, Chancellor of the Duchy of Lancaster, 19-20 May 2021

ROBERTSON

Hi Michael, The First Minister has kindly entrusted me with Cab Sec responsibility for the Constitution, External Affairs and Culture. We will no doubt be involved with the same issues and wanted to make sure you had my personal number. Best wishes, Angus Robertson

GOVE

Hi Angus! And congratulations on your appointment. Very much looking forward to working with you. Feel free to contact me on this number at any time. With every good wish

Michael

ROBERTSON

Would you be so kind as to forward a mobile number for Oliver Dowden? Cheers, Angus

GOVE

Of course

Text message conversation with Lord David Frost, no date

FROST

Dear Angus, it's David Frost here. Congratulations on the new role. I suspect we'll be seeing a fair amount of each other!

ROBERTSON

David, Many thanks for you considerate and kind message. We will no doubt bump into one another sooner rather than later. Glad you have my mobile number. Angus

FROST

Yes I discovered I still had it

Rt Hon Priti Patel MP
Home Secretary
Home Office
2 Marsham Street
London
SW1P 4D

POCorrespondence@homeoffice.gov.uk

26 May 2021

A handwritten signature in black ink that reads "Home Secretary," with a large, stylized flourish at the end.

Dear

There has been significant public interest and comment following the immigration enforcement action in Glasgow on 13 May. That enforcement action has raised a number of important issues.

The Scottish Government welcomes people who come to Scotland to make a positive contribution to our communities, our public services and our economy. It is important that we treat people who want to make Scotland their home with dignity, fairness and respect.

I accept that migration needs to be controlled to deter and prevent abuse, fraud and criminal activity. Indeed the need to control migration was one of the seven draft principles set out by the Scottish Government in our January 2020 paper Migration: Helping Scotland Prosper. However, any enforcement procedures in Scotland must be carried out with due regard to the safety of our communities and be aligned to our values of dignity, fairness and respect.

The immigration raid in Pollokshields, in the heart of a community celebrating Eid, a day after the First Minister warned of an upsurge of COVID-19 cases in the South Side of Glasgow failed that test. It created an unnecessary situation requiring a significant Police presence to ensure public safety.

I know that you have highlighted the importance of public opinion and consent in relation to immigration enforcement activity. I am clear that we need democratic accountability and oversight of immigration including immigration enforcement. The events of 13 May were a clear articulation of the views of the community. I don't consider inflammatory and divisive rhetoric suggesting that those taking action are protecting murderers, rapists and high profile offenders is helpful.

We both know that it is inaccurate to suggest that all those subject to immigration enforcement have been linked to criminality. Clearly there will be some cases where

swift action needs to be taken to remove individuals who present a risk but as the events at Kenmure Street showed, individuals facing deportation are often valued members of communities they have been part of for many years. Many of those subject to immigration enforcement have committed no crime and are no threat to the public, having simply exhausted their appeal rights.

A more humane approach to immigration enforcement is required, one which reflects the views and values of Scottish communities and does not involve the heavy-handed approach of raids which are disruptive to our communities, are inherently divisive, risk public health and take up valuable Police resources.

I would welcome an urgent meeting to discuss how to ensure there is no repetition of the events at Kenmure Street in the future

[REDACTED]

Angus Robertson

T: 0300 244 4000
E: scottish.ministers@gov.scot

The Rt Hon Lord Frost CMG
Minister of State for the Cabinet Office
pslordfrost@cabinetoffice.gov.uk

A handwritten signature in black ink that reads "Dear David,".

I am writing to you following my appointment as the Scottish Government's new Cabinet Secretary for the Constitution, External Affairs and Culture. I am also delighted to be joined in my ministerial portfolio by Jenny Gilruth, who will work with me as Minister for Culture, Europe & International Development.

As you know people in Scotland voted overwhelmingly to remain in the EU and the Scottish Government believes the hard Brexit represented by the Trade and Cooperation Agreement (TCA) will be damaging to Scotland's future prospects. However, notwithstanding the different positions of our governments, we look forward to working with you. We also wish to raise some pressing matters with regard to EU-UK relations.

Following the recent ratification of the TCA Jenny and I are conscious of the importance of maintaining and building good relations with EU partners. We are also keen to ensure collaborative working with the UK Government and the other Devolved Governments on TCA related matters and across a range of areas where there are shared interests with the EU, one example being on climate action and the path towards COP26 in Glasgow.

With regard to the EU-UK agreements, I understand that meetings of the TCA Partnership Council and the Withdrawal Agreement Joint Committee are expected to take place in early or mid-June.

We would expect to have meaningful Devolved Government involvement in the TCA governance structures, including the forthcoming Partnership Council meeting, and also note the level of access and participation which all EU Member States are likely to be afforded in regard to those structures, and those of the Withdrawal Agreement Joint Committee.

Devolved Government representation is necessary in those areas where implementation is within our competence and also in those areas where there are significant implications for Scotland's economy, society, environment and separate legal jurisdiction. It is vital we urgently agree the role of the Devolved Governments in these governance structures and the intra-UK processes which underpin them..

As my officials have previously set out to yours, we believe that the meaningful inclusion of the Devolved Governments in TCA implementation and governance mechanisms should build upon arrangements that existed on EU issues before

the 2016 referendum. It would also enable relevant expertise to be deployed regarding matters pertaining to or touching upon devolved competences and interests.

This matter is now urgent and getting this right from the outset will be important in setting the right tone for our working relationships,

In a similar vein, it is very important that the Scottish Government has visibility of the ongoing work to implement the Protocol on Ireland/Northern Ireland and that we have an opportunity to provide our input into live issues where Scotland has significant interests. We understand, for example that there are several outstanding issues related to Sanitary/Phytosanitary and border controls where Scottish competences and interests are directly engaged. I would be grateful for early confirmation as to how that input is to be secured.

I will be taking paternity leave from this coming Monday until 14 June but I hope to meet you soon after my return and, of course, Jenny will represent our interests in my absence.

[REDACTED]



Rt Hon Lord Frost CMG
Minister of State
Cabinet Office 70 Whitehall London
SW1A 2AS

Our reference: MC2021/11232

The Rt Hon Arlene Foster MLA
First Minister
NI Executive

Michelle O'Neill MLA
deputy First Minister
NI Executive

The Rt Hon Angus Robertson MSP
Cabinet Secretary for the Constitution,
External Affairs and Culture
Scottish Government

Mick Antoniw MS
Counsel General & Minister for the Constitution
Welsh Government

27 May 2021

Dear colleagues,

1. Now that our Trade and Cooperation Agreement with the EU has been fully ratified, I would like to set out how the Government intends to work with you to ensure its effective implementation. I am very much intending to do this on a constructive and mutually beneficial basis.
2. As you know, the TCA is a broad Agreement which touches upon many parts of the Government's activity. Although I have overall responsibility for the arrangements and the relationship with the EU, it has been agreed that individual Departments should be primarily responsible for the detailed implementation of the Agreement in their areas of policy, within the overall agreed policy framework. This

means that in practice (for example) most Specialised Committees will be chaired by officials from the lead Whitehall Department, supported of course by my team.

3. Clearly certain aspects of the TCA cover areas of devolved competence too (as of course does the Withdrawal Agreement) and this raises the question of how we can best work with Devolved Administrations in getting the right outcomes for the UK as a whole. The same question arises in relation to the Crown Dependencies as regards areas covered by the TCA which are relevant to them.
4. In considering these issues, we have taken account of the fact that the TCA is a standard, though very broad, international agreement, with no elements of supranationality for EU institutions or of direct effect for EU law. Outcomes from the Partnership Council or subordinate bodies must in all cases be by consensus. Accordingly it is the relationship between the devolved administrations and the UK Government, not the EU institutions, that is crucial in setting UK policy and hence outcomes.
5. With this in mind we have agreed the propositions set out below for the Partnership Council. They should apply to the structures established for the Withdrawal Agreement too, though we do not anticipate this will in practice produce any changes to arrangements already established over the last year. In particular the Northern Ireland Executive's agreed role in such committees will be unaffected, given the particular circumstances generated by the Northern Ireland Protocol.
 - a. Where items of devolved competence are on the agenda for the Partnership Council or the Specialised Committee, we expect to facilitate attendance by Devolved Administrations at the appropriate level, i.e. at roughly similar seniority to UK Government attendees.
 - b. However, final discretion in any specific instance as regards attendance would be held by the UK co-chair of the body concerned, depending on the nature of the discussion.
 - c. Preparation for all such meetings will be coordinated by the responsible UK Government Department, supported by the EU Secretariat here in the Cabinet Office. Where the items likely to be discussed include matters of devolved competence, these should include representatives of the devolved administrations, at the appropriate level, and I am making clear that this should happen as a matter of normal practice.
 - d. My officials in the Cabinet Office's EU Secretariat should regularly discuss strategic and cross-cutting EU issues with your officials.
 - e. I will extend to the Partnership Council the existing practice established last year of facilitating a collective meeting between me and responsible devolved administration Ministers before Joint Committees.
6. I would note also that it is important that engagement with the EU outside these formal structures is coordinated to ensure the UK Government can conduct its international affairs effectively in our new relationship with the E.U. We suggest therefore that it is appropriate for devolved administrations to keep the UK Government informed about both the fact and content of significant (Ministerial or senior official) contacts with the EU institutions or Member States. We would of

course expect that you would support the UK Government's position in such contacts.

7. I expect that the first meeting of the UK-EU Partnership Council will be held in early June, and that matters of devolved competence will be on the agenda. A meeting of the Withdrawal Agreement Joint Committee will also be held around the same time. In accordance with the propositions above, I would therefore like to invite you to meet with me ahead of those meetings to hear your views and discuss the UK's approach to these meetings. My officials will be in contact with yours on the arrangements and on the substantive preparations for both meetings.
8. I suggest that these principles should also apply to the Crown Dependencies as regards areas covered by the TCA which are relevant to them (ie principally goods trade and fisheries), again without prejudice to any arrangements already established under the Withdrawal Agreement. Accordingly, I am copying this letter to the Chief Ministers of the Isle of Man and Jersey, and the President of the Policy and Resources Committee of Guernsey.
9. I look forward to meeting you soon.
10. I am copying this letter to the Secretaries of State for Scotland, Wales, and Northern Ireland, the Chancellor of the Duchy of Lancaster, the Secretary of State for Justice, the Cabinet Secretary, and the Prime Minister's Chief of Staff.

With best wishes,
[REDACTED]

Rt Hon Lord Frost CMG



Lord True CBE
Minister of State
Cabinet Office 70 Whitehall London SW1A 2AS

Our reference: MC2021/12349

To: Angus Robertson MSP, Cabinet Secretary
for the Constitution, External Affairs
and Culture, Scottish Government

Shona Robison MSP, Cabinet Secretary for
Social Justice, Housing and Local
Government, Scottish Government

scottish.ministers@gov.scot

8 June 2021

Dear Angus and Shona,

Platinum Jubilee Civic Honours Competition

I am writing to make you aware that the UK Government has today announced and launched a civic honours competition to mark Her Majesty The Queen's Platinum Jubilee in 2022.

This includes competitions for city status and Lord Mayor (or Provost) status. All local authorities across the United Kingdom who believe that their town or city deserves consideration for these rare honours will be invited to apply. The city status competition will also be open to eligible applications from the Crown Dependencies and Overseas Territories. Details on the entry guidelines and an application form have been published on GOV.UK. The closing date is 8 December 2021.

Civic honours are a reserved matter and therefore the responsibility of the UK Government. Our officials have already been in touch to discuss the competition, however, please do not hesitate to reach out to my office or officials if you have any questions.

Yours sincerely,
[REDACTED]
Lord True CBE

Rt Hon Lord Frost CMG
Minister of State
Cabinet Office 70 Whitehall London
SW1A 2AS

Rt Hon Angus Robertson MSP
Cabinet Secretary for Constitution, External Affairs, and
Culture, Scottish Government

Ms Jenny Gilruth MSP
Minister for Culture, Europe & International Development, Scottish Government

The Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

14 June 2021

Dear Angus, Jenny,

INVOLVEMENT IN UK-EU MEETINGS

1. Thank you for your letters of 1 June and 6 June, regarding the involvement of the Scottish Government in UK-EU business. I am replying to both together as they raise similar issues.
2. As I said in my letter of 27 May, I look forward to working with you on the effective implementation of the Trade and Cooperation Agreement and the Withdrawal Agreement, in a constructive and mutually beneficial way. It was good that you were able to join the Partnership Council on 9 June, and to engage with me ahead of that meeting.
3. I hope that my letter has provided reassurance on many of your points. In particular, I would note that my proposal:
 - a. covers both the Withdrawal Agreement and the Trade and Cooperation Agreement, as you have requested, where there are matters of devolved competence on the agenda. For the Withdrawal Agreement Joint Committee, we do not anticipate this means any change in established practice as there will not normally be issues of devolved competence on the agenda, beyond those relating to the Protocol on Ireland / Northern Ireland.
 - b. recognises the importance of intra-UK processes, by offering engagement with me ahead of each Partnership Council and

Withdrawal Agreement Joint Committee, as well as ongoing official-level engagement across all relevant UK departments; and

- c. commits to working closely with you on implementation issues in both Agreements, where they fall within devolved competence.
4. I believe this to be a balanced approach. It allows us to work together constructively in a mutually beneficial way, recognising that the Agreements cover certain areas of devolved competence, while preserving the intergovernmental nature of the Treaties and the institutions created by them.
5. I noted in the 8 June meeting that I hoped engagement ahead of future Partnership Council meetings would be more substantive than this time round. Normally Partnership Council meetings will have been prepared by much work (and hence engagement with you) at Specialised Committee level.
6. I look forward to future constructive engagement.

With best wishes,
[REDACTED]
Rt Hon Lord Frost CMG

Dominic Raab, MP
Secretary of State for Foreign, Commonwealth and
Development Affairs and First Secretary of
State Foreign, Commonwealth and
Development Office
London
SWIA 2AH

Private.Office@fcdo.gov.uk

15 June 2021

Dear Dominic,

I am now writing for the second time this year to reiterate the Scottish Government's grave concern at the huge cut in the UK's overseas aid budget.

It is morally indefensible for the UK Government to talk about building back better after the pandemic, if this is to be done on the backs of the world's poorest and most vulnerable communities. It is striking that the UK is the only country in the G7 cutting back so drastically on its overseas aid budget this year, during the pandemic. As we have said before, during the Covid-19 pandemic is not a time to be turning our back on the poorest. Rather this is precisely the moment when we should be living up to our core values.

We are disappointed that so far the UK Government has not put the funding decision to a vote in the House of Commons. We urge the Government to listen to the views expressed during the emergency debate called by Andrew Mitchell MP on 08 June 2021, which were across the political divide.

We note that Sir Lindsay Hoyle, the Speaker of the House of Commons, called upon the Prime Minister to give MPs an opportunity to formally take an effective decision on the question of the cut. The Scottish Government supports this call. We were disappointed that the Prime Minister's office immediately indicated that "There are certainly no plans to bring forward a vote."

The Scottish Government strongly believes that it is on decisions such as these that the rest of the world will judge post-Brexit "Global Britain". The UK Government has been tested and found wanting. We request, at the earliest opportunity, for this issue to be brought back to the Westminster Parliament to be discussed and voted upon.

[REDACTED]



Chloe Smith MP
Minister of State
Cabinet Office 70 Whitehall London SW1A 2AS

Angus Robertson MSP
Cabinet Secretary for the Constitution, External Affairs and Culture
Scottish Government
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Our reference: MC2021/13466

23 June 2021

Dear Angus,

UK COMMON FRAMEWORKS

Congratulations on your appointment as Cabinet Secretary for the Constitution, External Affairs and Culture. I would like to take this opportunity to welcome you to the role and I look forward to working with you.

As you know, at the summit chaired by the Prime Minister with First Ministers it was agreed that the UK Government and the Devolved Administrations should continue to work together in areas of common interest. The UK Common Frameworks Programme is a major part of this joint work. Once fully implemented, UK Common Frameworks will establish enduring common approaches on the use of powers that have returned from the European Union, and fall within areas of devolved competence. UK Common Frameworks allow our governments to jointly develop coherent policy to deliver the best outcomes for people and businesses across the UK.

The UK Government and Devolved Administrations have remained committed to progressing UK Common Frameworks. Since the programme's inception, Ministers and officials across a wide range of departments have worked collaboratively to establish these effective ways of working. The overwhelming majority of Frameworks are now operational in some form, providing reassurance to governments, consumers and businesses.

It is essential that we continue to make progress toward full implementation of the Frameworks and provide appropriate transparency in the programme now that Frameworks are operational. There remains significant work to do to deliver UK Common Frameworks this year in line with our ambition. At present we have published 7 Frameworks, whilst a further 23 Frameworks are in interim operation. Completing the delivery of the UK Common Frameworks Programme is a priority for the UK Government, to ensure Frameworks undergo the requisite scrutiny by legislatures and stakeholders.

I would like to work with you to find ways to hasten progress in the programme both by considering how to make the process as efficient as possible, and seeking ways to accommodate ongoing policy discussions between the UK and Scottish Governments. I would welcome the opportunity to discuss this with you and have asked my office to explore when we might be able to speak in the coming weeks.

I look forward to meeting with you at the earliest opportunity.

Yours ever,

[REDACTED]

Chloe Smith MP
Minister of State for the Constitution and Devolution

Chloe Smith MP

Your ref: MC2021/13466

Dev Chloe,

Thank you for your letter of 23 June. I look forward to working with you, and please accept my very best wishes on your announcement that you are now fully recovered from recent illness.

As you note, one matter for early discussion is our governments' collaboration on common frameworks. I hope you will agree that this is an area where we have been able to make substantive progress in designing effective intergovernmental mechanisms for managing policy alignment and divergence in matters previously shaped by EU law. Common frameworks offer a model of practical collaboration between equals and progress by agreement that can be applied elsewhere.

However, it is increasingly clear that there is an urgent need to reach agreement on a number of outstanding issues if frameworks are to be finalised and implemented by the end of 2021, in a manner that gives meaningful effect to the principles agreed at JMC (EIN) in October 2017.¹

The most significant of these is the interaction of common frameworks and the Internal Market Act. The Scottish Government remains resolutely opposed to the Act, which fundamentally and negatively, alters the devolution settlement in Scotland and places powers in the hands of UK Ministers at the expense of the Scottish Parliament and Scottish Ministers. The way the Act operates, and its imposition despite a clear refusal of consent by the Scottish Parliament, have damaged the devolution settlement, undermined trust and created a significant barrier to sustainable inter-governmental relations across the UK.

In addition to these fundamental concerns[¶] there are specific issues regarding the Act's impact on the operation of common frameworks that must now be addressed.

The Act's market access principles will, in many cases, undermine the policy effect of any divergence agreed by common frameworks, for example in animal health and welfare, food standards and environmental protection.

Numerous assurances were given during the Act's passage at Westminster that it would be fully compatible with, and respect, common frameworks. However, six

months after the Act's commencement, and with six months until frameworks are to be finalised and implemented we are yet to see workable proposals for mechanisms to deliver on that commitment.

A proposed UKG approach, seen by my officials for the first time on 22 June, is not compatible with the JMC (EN) frameworks principles because it fails to maintain, as a minimum, equivalent flexibility to tailor policies to the specific needs of each territory as was previously afforded by EU rules: that flexibility is now subject to an effective veto held by UK Ministers — despite an assurance given during the passage of the Bill on 15 December 2020 by Lord Callanan that 'close attention would be paid to the interests of other parties involved in the programme' and the 'voluntary and consensus driven nature of the [frameworks] programme' would be protected.

The proposals also fail to meet undertakings given by UK Ministers that agreement on divergence in a common framework would see the disapplication of the market access principles:

In those cases, the Secretary of State would be able to bring to the House a statutory instrument to exclude from the market access principles a specific agreed area of divergence. This would follow consensus being reached between the UK

1. Government and all the relevant parties that this is appropriate in respect of any specific defined topic within a common framework. ¹

I would be grateful for your assurance that proposals seen by my officials will be revised so that they are compatible with the JMC (EN) frameworks principles, and to reflect the spirit and the letter of the assurances offered by Lord Callanan on December 15 2020. While not addressing the Act's wider incompatibility with the devolution settlements, this would at least offer divergence agreed through common frameworks some protection from the Act's effects.

The JMC frameworks principles also refer to cross-cutting issues such as international trade policy and the UK's changing international obligations: again, despite the best effort of officials across the four governments, we seem unable to reach an agreed position on these matters' interaction with policies covered by common frameworks. A clear sense of common frameworks' operational interactions with the Northern Ireland Protocol is also needed.

My officials have engaged constructively with their counterparts to find a way through these challenges, but urgent consideration of these matters across the whole frameworks project is needed to ensure its coherence and viability.

The impact of the Internal Market Act on common frameworks, and their interaction With other cross-cutting issues such as trade, and operational matters such as the NI

¹ [https://hansard.parliament.uk/lords/2020-12-i5/debates/30D48FCI-D74D-4627-8045-405C01172EAA/United Kingdom InternalMarketBill#contribution-96C01693-3370-4CF5-8513-272C FE94EE30](https://hansard.parliament.uk/lords/2020-12-i5/debates/30D48FCI-D74D-4627-8045-405C01172EAA/United%20Kingdom%20InternalMarketBill#contribution-96C01693-3370-4CF5-8513-272C_FE94EE30)

protocol have attracted significant interest from the Scottish Parliament. I share your ambition in moving frameworks on to formal scrutiny in the four UK legislatures prior to finalisation and implementation, However, until these matters are adequately addressed, I cannot recommend that frameworks are put to the Scottish Parliament for scrutiny: to do so would serve little purpose until there is sufficient substance for Parliamentarians to scrutinise.

I very much hope we can work at pace to find solutions to these challenges in line with our common commitments. I would be grateful for an early meeting to discuss these matters.

I am copying this letter to John Swinney, Mick Antoniw, Alister Jack, Michael Gove, Paul Givan and Michelle O'Neill.

[REDACTED]

Angus Robertson

[REDECTED]

Lord True CBE
ministerial.correspondence@cabinetoffice.gov.uk

Your ref: MC2021/12349
Our Ref: 202100213178

30 June 2021

Dear Lord True CBE,

Thank you for your correspondence of 8 June, to my colleague Shona Robison MSP and myself in connection with the Platinum Jubilee Civic Honours Competition.

There was considerable interest in the City Status competition of Her Majesty's Diamond Jubilee in 2012 with Perth successfully securing its place as one of Scotland's cities. This opportunity, and that of Lord Provost status, will no doubt attract serious consideration from Scotland's local authorities. To ensure all concerned are aware of the dual competitions Scottish Government officials have written to the local authorities Chief Executives, the Convention of Scottish Local Authorities(COSLA) and also advised the Scottish Lord Lieutenants. Officials of the Scottish and UK governments meet regularly to support this, and the many other initiatives planned in celebration of Her Majesty's Platinum Jubilee.

While civic honours are currently a reserved matter it is helpful to have notification of the enterprises planned for Her Majesty's Platinum Jubilee celebrations.

Please do not hesitate to contact me should you require any assistance in this matter.

Yours sincerely,

[Redacted]

Angus Robertson

Chloe Smith MP
Minister for the Constitution and Devolution
Cabinet Office
70 Whitehall
London
SW1A 2AS

12th July 2021

Dear Chloe

Progress on Common Frameworks

It was good to meet you again on Wednesday for what was a positive and productive meeting. Thank you for your good wishes in my new role.

I thought that it may be helpful to set out what we discussed in relation to the common frameworks project. The Scottish Government has always been clear that frameworks must operate in a way that respects and protects the devolution settlement and the roles and responsibilities of Scottish Ministers and the Parliament. If this happens, frameworks can deliver sustainable and meaningful intergovernmental arrangements for managing legitimate policy divergence.

Of course these issues have only arisen because of Brexit and the decision by the UK Government to remove Scotland from the EU against the wishes of the overwhelming majority of people who live here.

As you know the Scottish Government also remains firmly opposed to the UK Internal Market Act, which was passed despite the refusal of legislative consent by the Scottish Parliament, and will continue to resist its profoundly negative and damaging impact on the devolution settlement.

The Scottish Government made clear from the outset that the Act would have a significant impact on the operation and viability of common frameworks.

I therefore note your commitment that proposals for a frameworks exclusions process will be designed to align with the JMC (EN) principles agreed for frameworks, based on respect for the devolution settlements. I also note your confirmation that commitments made by UK Ministers in the late stages of the Bill's passage will be honoured.

However, we should be under no illusion as to how difficult the Act makes delivering on this commitment. Amendments were brought forward during the Act's passage

that would have ensured that policy divergence agreed through common frameworks was automatically exempted from the Act's market access principles. These amendments were not accepted by the UK Government. As a matter of law, UK ministers currently hold an effective veto over any agreement reached in a common framework: it is not possible to reconcile this with the principles and approach that have guided the frameworks process since 2017. In addition, the simple fact of the Act means the UK Government has a disincentive to seek to manage policy divergence by agreement.

These are fundamental difficulties which cannot be brushed aside or ignored. However, my officials will engage with yours to assess proposals for a mechanism to protect common frameworks from the Act's effects, and to assess whether such a mechanism can ensure the integrity and viability of the frameworks process, in line with the JMC frameworks principles and the commitments made by UK Government ministers.

We also discussed the importance of increased transparency and of updating our respective legislatures and stakeholders on common frameworks delivery in a timely manner. As you know, my view is that publication of provisional frameworks without satisfactory progress on the cross-cutting issues set out in my letter of 30 June would be counterproductive, and that publication must be on the basis of agreement across the four nations. I was grateful therefore, to receive confirmation from officials following the meeting that plans for publication before the UK Parliament recess have been put on hold.

As you acknowledged, further urgent work is also needed to resolve cross-cutting issues, including how the Northern Ireland Protocol interacts with frameworks and how best to reflect the legitimate interests of devolved governments around international and trade issues. These issues must all be resolved satisfactorily if we are to meet our ambition for delivery of full frameworks by the end of 2021.

I look forward to considering with you, and colleagues from Wales and Northern Ireland, further work being done at pace by our officials as soon as that is practicable.

I am copying this letter to the First and Deputy First Ministers of Northern Ireland, the Counsel General for Wales, the Chancellor of the Duchy of Lancaster and the Secretary of State for Scotland.

Best Wishes,

[REDACTED]
ANGUS ROBERTSON



Chloe Smith MP
Minister of State for the Constitution and Devolution
Cabinet Office 70 Whitehall London SW1A 2AS

Angus Robertson MSP
Cabinet Secretary for the Constitution, External Affairs and
Culture

Our reference: MC2021/15449

27 July 2021

Dear Angus,

Thank you for your letter. It was very good to see you on 7 July, and I welcome your shared commitment to the Common Frameworks programme. I agree that Frameworks will be a valuable vehicle for cooperation between our administrations, and in particular, I am glad that we share a commitment to developing a mechanism for creating exclusions from the UK Internal Market Act's market access principles where all administrations agree such exclusions are appropriate.

I gather that our officials have met to discuss this since we spoke, and that my officials have committed to refining the proposal to make clear that it respects prior commitments. I would like to point out particularly that the process for agreeing exclusions should be pursued on a consensual basis, in line with Lord Callanan's commitments to the House, and that the mechanism for agreeing exclusions should have proper regard to JMC(EN) principles, which we are both committed to. This was always our intention, and I welcome the opportunity to be clear on this point. I do not believe it is fair to say that the UK Government holds a veto within the Common Frameworks, as their by-consensus nature means that any party can raise an objection and we are all bound to seek consensus

During our meeting, you set out your view that it would be counterproductive to publish Common Frameworks before the UK Government and the devolved administrations arrive at a shared understanding of the way in which Frameworks should take account of the range of cross-cutting issues, including the UKIM Act. I remain of the view that transparency is vital and that we should publish Common

Framework agreements as soon as possible, but this must be weighed against the importance of maintaining a four nation approach.

Taking this into account, I met with the House of Lords Common Frameworks Scrutiny Committee on 13 July and confirmed that we now are aiming to publish Frameworks in the Autumn, which should allow sufficient time for a shared understanding on cross-cutting issues to be reached, whilst also enabling Parliamentary Scrutiny to start as soon as possible. These are all essential steps to delivering the programme by the end of the year.

I have therefore asked my officials to work closely with you officials and their counterparts in the Welsh Government and the Northern Ireland Civil Service to seek a common position on the various cross-cutting issues over the summer as a matter of priority.

Subject to our other commitments, I suggest that we meet again in the first part of August to discuss progress. My office will be in touch with yours to make the necessary arrangements.

I am copying this letter to the First and deputy First Ministers of Northern Ireland, the Counsel General for Wales, the Chancellor of the Duchy of Lancaster and the Secretary of State for Scotland.

Yours ever,

[REDACTED]

Chloe Smith MP

Minister of State for the Constitution and Devolution

Lord David Frost
pslordfrost@cabinetoffice.gov.uk

06 August 2021

Dear David,

I welcome our constructive call yesterday, and particularly the frank and open nature of the conversation. Whilst it is clear that we will continue to have opposing views on points of significant substance, I trust we will retain the ability to air such matters between us in a direct and timely manner.

In our conversation I noted the breadth of Scottish interests within the TCA governance arrangements, and the importance of comprehensive Scottish Government involvement. These interests extend beyond a narrow definition of devolved competencies, to include our interest in reserved matters that impact on Scotland, and policy areas where the Scottish Government is responsible for implementation. I was pleased that you noted these points, and indicated that you and your officials would reflect on them going forward.

I also mentioned the Northern Ireland Protocol, as perhaps the most obvious current example of our absence from key discussions which impact on Scotland. The provisions of the Protocol affect devolved interests in many ways, not least economic, and involve public bodies for which we are responsible and accountable. It cannot be right that we had not seen the detail of last month's Command Paper – far less had any chance to influence it – before it became public.

Implementation of the Protocol obliges us to prepare for the installation of a Border Control Post at Cairnryan, at an estimated cost of [REDACTED]. My colleague Mairi Gougeon, Cabinet Secretary for Rural Affairs and Islands, wrote to you in this regard on 23 June, and the issue has been raised with UK Government officials consistently over the last few months. It must be in the interests of both of our Governments and of good governance in Northern Ireland for the Scottish Government to be included in discussions on matters such as the protocol at the earliest stages and throughout. This is a matter of both principle and practice: we need to ensure not only that our planning is informed by the best information but also that your negotiating is informed by input from us on practicalities on the ground.

We look forward to working with your officials on pragmatic ways of addressing this shortfall in the current arrangements

As I mentioned on the call, I have asked my officials to monitor how the TCA governance arrangements settle down and the degree to which Scottish interests are being meaningfully engaged with and accommodated both in the UKG positions at Specialised Committees and in negotiated outcomes with the EU.

Finally, let me finish by reiterating two points I made during the meeting. First, the Scottish Government will continue to reflect the position of the people of Scotland – that it shares the ideals and values of the EU, and intends in due course to re-join the EU as an independent member state. And secondly we urge the UK Government to proceed in a spirit of collaboration, not conflict, in its ongoing negotiations with the EU.

We agreed to keep in touch over the Autumn.

Yours sincerely,

[REDACTED]

Chloe Smith MP
Minister for the Constitution and Devolution
Cabinet Office
London

12th August 2021

Dear Chloe,

Common Frameworks Delivery: Cross-cutting Issues

I am sorry that diary clashes meant we were unable to meet today as planned to discuss work being done to resolve outstanding cross-cutting issues that bear on the delivery of common frameworks.

I thought it would be useful to set out my view of actions needed to progress two of the most pressing of these issues: the impact of the Internal Market Act, and about how reserved matters that impact substantially on frameworks should be addressed.

I know that our officials are developing a process that, if adopted, would allow for policy divergence agreed through common frameworks to be excluded from the Act, in a manner that gives effect to the assurances offered by UK Government ministers in Parliament, and in line with the JMC (EN) frameworks principles.

The imposition of the Act makes the delivery of common frameworks more difficult. It is extremely regrettable that the UK Government did not take the opportunity to amend the Bill last winter to ensure that policy divergence managed by agreement through common frameworks would not be caught by the Act – which as you know the Scottish Government believes is unnecessary and damaging to devolution.

If frameworks are to operate as intended, a clear exclusions process is needed that is supported by an unequivocal political commitment to ensure that where policy divergence has been agreed through a common framework, UK Ministers will exercise their delegated powers and grant an automatic exclusion from the market access principles set out in the Act.

Our officials have also been working on language that would set out how reserved matters impacting on common frameworks should be addressed. I understand that you would find it helpful to have my view of further revisions proposed by the Department for International Trade to text previously agreed between your department and the devolved governments.

My starting point is that decisions about how reserved matters – such as the conduct of international relations and the regulation of international trade – should be reflected in common frameworks must take account of the principles agreed at JMC

at the outset of joint working on common frameworks, which included a commitment to “close working ... on reserved and excepted matters that impact significantly on devolved responsibilities”.

I have therefore reviewed the proposed text in light of these principles and have concluded that the wording neither acknowledges the bespoke arrangements we are seeking to establish through common frameworks, nor reflects legitimate interest of the devolved governments in international and trade issues, or the shared commitment to close working agreed at JMC (EN).

What is needed is an approach that reflects the specific requirements in common frameworks to manage the significant dependencies on reserved matters like trade, but which takes account of, and does not cut across, parallel discussions on UKG-DA collaboration, such as those taking place in the Inter-Ministerial Group on Trade.

Like you I am keen to move things forward so that up to date provisional frameworks can be published and the scrutiny process can begin. I therefore propose that our respective officials do further work with their counterparts in Wales and Northern Ireland to agree final text for consideration at the four nations meeting proposed for early September.

I am copying this letter to the Counsel General for Wales, the First Minister and deputy First Minister of Northern Ireland, the Chancellor of the Duchy of Lancaster, and the Secretary of State for Scotland.

Best wishes,

[REDACTED]

ANGUS ROBERTSON

Letter from Angus Robertson MSP, Cabinet Secretary for Constitution, External Affairs and Culture to Oliver Dowden MP, Secretary of State for Digital, Culture, Media and Sport

This letter has already been published and can be accessed at the following link –

<https://www.gov.scot/publications/coronavirus-covid-19-travel-for-creative-professionals/>