

Eluned Morgan MS
Minister for Health and Social Services
Welsh Government

14 June 2022

Dear Eluned

Provisional common frameworks

Thank you for your letter of 9 May 2022 regarding the Public Health Protection and Health Security; Blood Safety and Quality; and Organs, Tissues and Cells (apart from embryos and gametes) provisional common frameworks. I am writing to request that further consideration is given to the provision of a substantive Welsh Government response to those recommendations set out in my letter of 21 March 2022 that do not relate to matters that are the subject of ongoing intergovernmental negotiations and scrutiny by other legislatures in the UK (see annex).

Your letter of 9 May 2022 indicates that it is a holding reply, on the basis that “until all legislatures in the UK have had the opportunity to complete scrutiny, [the Welsh Government] will be unable to address these recommendations formally”.

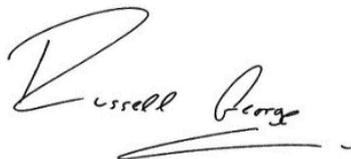
We considered your letter at our meeting on 19 May 2022. We accept that some of our recommendations relate to matters that are subject to ongoing intergovernmental negotiations and scrutiny by other UK legislatures. We agree that it is reasonable for the Welsh Government to send a holding response in respect of these recommendations.

However, a number of our recommendations relate to matters that are specific to Wales and to the Welsh Government. We are not persuaded that it should be necessary for us to wait for a substantive response to these recommendations, particularly as there is ongoing uncertainty as to when the Northern Ireland Assembly will be in a position to complete its scrutiny of these frameworks.

We have set out in the annex to this letter which recommendations we believe fall into which category.

I look forward to receiving your response by **29 July 2022**.

Yours sincerely

A handwritten signature in black ink that reads "Russell George". The signature is written in a cursive style with a long horizontal stroke underneath.

Russell George MS
Chair, Health and Social Care Committee

cc Tracey Cooper, Chief Executive, Public Health Wales

Huw Irranca-Davies MS, Chair, Legislation, Justice and Constitution Committee, Welsh Parliament

Baroness Andrews, Chair, Common Frameworks Scrutiny Committee, House of Lords

Lesley Hogg, Clerk and Chief Executive, Northern Ireland Assembly

Gillian Martin MSP, Convenor, Health, Social Care and Sport Committee, Scottish Parliament

William Wragg MP, Chair, Public Administration and Constitutional Affairs Committee, House of Commons

Croesewir gohebiaeth yn Gymraeg neu Saesneg. We welcome correspondence in Welsh or English.

Annex: Public Health Protection and Health Security; Blood Safety and Quality; and Organs, Tissues and Cells (apart from embryos and gametes) provisional common frameworks

Request for substantive responses

1. We request a substantive response to the following recommendations. We have outlined for each why we believe a response does not rely on the completion either of intergovernmental negotiations or scrutiny by other UK legislatures.

Recommendation	Notes
Recommendation 1: The Welsh Government should explain how it will identify and manage risks associated with and arising from the PHPHS, BSQ and OTC common frameworks on an ongoing basis, including how information about such risks will be shared with Senedd committees.	The Welsh Government's approach to identifying and managing risks and sharing information with Senedd committees is not subject to scrutiny by other UK legislatures.
Recommendation 7: The Welsh Government should confirm that it will notify Senedd committees in advance of reviews of the PHPHS, BSQ and OTC common frameworks and ensure that committees have an opportunity to scrutinise any proposed changes. Notifications should include information about the proposed approach to consultation with stakeholders.	This recommendation relates to a unilateral Welsh Government commitment to notifying Senedd committees – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.
Recommendation 8: To ensure proportionality, the Welsh Government need only notify Senedd committees of disputes arising under the common frameworks that are escalated to Ministerial level.	This recommendation relates to a unilateral Welsh Government commitment to notifying Senedd committees – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.
Recommendation 9: The Welsh Government should set out its views on whether any time limits should be specified within the dispute resolution process.	We note that the Deputy Minister for Mental Health and Wellbeing has already set out the Welsh Government's position on this principle in her letter to us of 21 April 2022 in respect of the Food Compositional Standards and Labelling provisional common framework.

Recommendation	Notes
<p>Recommendation 12: The Welsh Government and Public Health Wales should confirm whether they have any concerns about the potential resource or capacity implications associated with the work programmes of the UK Health Protection Committee or the Health Protection Oversight Group. This should include setting out the outcome of the assessment of resources referred to by the Minister for Health and Social Services in her letter of 17 January 2022, and, if the work programme is to be resourced from within existing budgets, details of where the funding and staff resource allocated to the work programme has been transferred from.</p>	<p>This recommendation relates to any concerns that either the Welsh Government or Public Health Wales have in relation to resource or capacity implications – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.</p>
<p>Recommendation 14: The Welsh Government and Public Health Wales should explain why there will not be a joint secretariat established for the UK Health Protection Committee or the Four Nation Health Protection Oversight Group. They should also indicate whether they intend to designate any supporting secretariat for either group.</p>	<p>This recommendation asks the Welsh Government and Public Health Wales to explain the rationale for a decision that has already been taken, and how they plan to engage with the structures within the common framework – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.</p>
<p>Recommendation 15: The Welsh Government should ensure that information about international activity within the scope of the PHPHS common framework is included in its regular reports to the Senedd on the operation of the common frameworks. This should include: Recent activity carried out by the Welsh Government or Public Health Wales. Details of common stances agreed with other parties to the framework for the purpose of international engagement. Information about upcoming international developments or obligations that would be within the scope of the framework.</p>	<p>This recommendation relates to information to be included by the Welsh Government in reports that it will unilaterally provide to the Senedd – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.</p>
<p>Recommendation 16: The Welsh Government and Public Health Wales should explain how they engaged in the process of developing and agreeing the Memorandum of Understanding with the European Centre for Disease Control, and how Wales will engage with the ECDC through the PHPHS common framework.</p>	<p>This recommendation asks the Welsh Government and Public Health Wales to explain what role they took in a process that has already happened, and how Wales in particular will engage with the ECDC through the framework – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.</p>



Recommendation	Notes
<p>Recommendation 17: The Welsh Government should confirm whether UK access to the EU’s Early Warning and Response System (EWRS) has been secured, and, if not, whether access will be requested through the PHPHS common framework.</p>	<p>This recommendation asks the Welsh Government to confirm a factual matter.</p>
<p>Recommendation 19: The Welsh Government should commit to notifying the Senedd, including the relevant committee(s), of any proposals to amend or repeal retained EU law within the scope of the BSQ or OTC frameworks that would affect Wales or Welsh patients.</p>	<p>This recommendation relates to a unilateral Welsh Government commitment to notifying Senedd committees – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.</p>
<p>Recommendation 20: The Welsh Government should explain the impact of the UK Internal Market Act 2020 on the movement of blood, organs, tissues and cells, including any risks to the practical effect of Welsh legislation and policy, and whether it is considering requesting any exclusions from the Act.</p>	<p>This recommendation relates to the Welsh Government’s interpretation of the impact of the UK Internal Market Act 2020, and whether it is considering requesting exclusions – this is not subject to intergovernmental negotiations or scrutiny by other legislatures.</p>
<p>Recommendation 23: The Welsh Government should explain how it will assess the risks and benefits for Wales of keeping pace with changes in Northern Ireland and the EU, as opposed to maintaining the status quo in Great Britain, and what position it will take in intergovernmental discussions on these matters.</p>	<p>The Welsh Government’s approach to identifying and managing risks for Wales is not subject to scrutiny by other UK legislatures.</p>

Holding response

2. We agree that it is reasonable for the following recommendations to be subject to a holding response at this stage, on the basis that they relate to matters that are the subject of ongoing intergovernmental negotiations and scrutiny by other legislatures in the UK.

<p>Recommendation 2: The Welsh Government should set out how it will ensure that the PHPHS, BSQ and OTC frameworks will maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory as was afforded by current EU rules.</p>
<p>Recommendation 3: The Welsh Government should seek intergovernmental agreement that the PHPHS, BSQ and OTC common frameworks will lead to no dilution of public consultation or of parliamentary scrutiny in policymaking or the legislative process.</p>
<p>Recommendation 4: The Welsh Government should explain how it will ensure that these common frameworks will not limit the role of the Welsh Government, the Senedd, or stakeholders in Wales</p>

when making law and policy for Wales. This should include how the Welsh Government will facilitate the engagement of committees or Members of the Senedd with the common frameworks if required, to ensure that frameworks do not represent a barrier to the operation of the Senedd's legislative procedures.

Recommendation 5: In line with the recommendations made by the House of Lords Common Framework Scrutiny Committee, the Welsh Government should secure intergovernmental agreement to update the PHPHS, BSQ and OTC common frameworks to include a commitment to update legislatures on the ongoing functioning of the frameworks after the conclusion of each review.

If this commitment is not included in the frameworks, the Welsh Government should confirm that joint reports on the frameworks will nevertheless be published in line with its stated expectation.

If intergovernmental agreement on this point cannot be secured, the Welsh Government should explain the reasons why intergovernmental reports will not be published, and confirm that it will nevertheless publish unilateral annual reports in line with its previous commitment.

Recommendation 6: In line with the recommendations made by the House of Lords Common Framework Scrutiny Committee, the Welsh Government should secure intergovernmental agreement to update the PHPHS, BSQ and OTC common frameworks to include:

- Provision that the first review of each framework should include an open consultation process with stakeholders.
- Commitment to ongoing stakeholder engagement.

Should either of these outcomes not be secured, the Welsh Government should explain the reasons why not, and outline what will be done instead to ensure that there is ongoing, open and meaningful engagement with stakeholders across the UK.

Recommendation 10: The Welsh Government should confirm that, before they are finalised, the PHPHS, BSQ and OTC common frameworks will be updated to reflect the new inter-ministerial dispute resolution process set out in the review of intergovernmental relations published in January 2022.

Recommendation 11: The Welsh Government should seek intergovernmental agreement that the UK Health Protection Committee should publish and provide regular updates on its shared work programme. This should include the publication of reports of its meetings.

Recommendation 13: The Welsh Government and Public Health Wales should ensure that the work programmes published by the UK Health Protection Committee and the Health Protection Oversight Group include details of which bodies will be responsible for carrying out which activities, and how such activities will be resourced.

Recommendation 18: The Welsh Government should confirm that any proposed amendments or repeals of retained EU law within the scope of the BSQ or OTC common frameworks will be undertaken through the common frameworks and not by a separate process.

Recommendation 21: In line with the recommendation made by the House of Lords Common Framework Scrutiny Committee, the Welsh Government should secure intergovernmental

agreement to update the BSQ and OTC common frameworks to refer to their interaction with the UK Internal Market Act 2020 and acknowledge the process for agreeing exemptions from that Act.

Recommendation 22: In line with the recommendation made by the House of Lords Common Framework Scrutiny Committee, the Welsh Government should secure intergovernmental agreement to update the BSQ and OTC common frameworks to include additional detail on when changes introduced in Northern Ireland through the Protocol on Ireland/Northern Ireland will be considered in these frameworks.

Recommendation 24: The Welsh Government should secure intergovernmental agreement to update the BSQ and OTC common frameworks to include detail of how Governments in the UK will work together on international and UK-EU obligations relating to blood, organs, tissues and cells. This should include how Wales will be represented in relevant discussions at the WHO and at UK-EU forums.