

# A Framework for UK Plant Varieties and Seeds

Plant Varieties and Seeds (PVS) is a devolved policy area under the devolution settlements of Scotland, Wales and Northern Ireland.

Following the UK's departure from the EU, Defra, Welsh Government, Scottish Government and DAERA have agreed to a non-legislative framework, underpinned by a Concordat signed by all parties, for the administration and management of plant variety registration and marketing and plant breeders' rights.

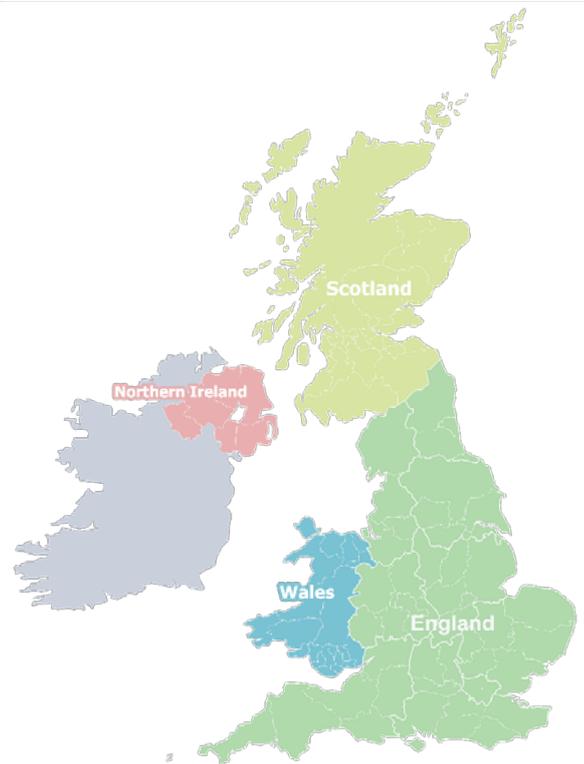
This will formalise existing mechanisms for officials to work together, with their delivery partners, to provide UK protection for plant breeders' rights, set standards for marketing and certification of seed and propagating material, and ensure these standards are upheld in order to: enable the functioning of the UK internal market, ensure compliance with international obligations; ensure the UK can negotiate, enter into and implement new trade agreements and international treaties and enable the management of common resources.

This framework builds upon commitments already developed between the four administrations to work together at a UK level. Its scope focuses on using co-ordinated procedures based on a common set of rules across the UK, acknowledging the opportunity for policy divergence whilst ensuring the functioning of the UK Internal Market.

The framework will be reviewed after six months, and every 3 years thereafter.

## Responsibility for PVS in the UK

Defra (England)
Welsh Government (Wales)
Scottish Government (Scotland)
DAERA (Northern Ireland)



## What does the framework cover?

- Administration of plant breeders' rights for the UK
- Administration of variety registration in GB and NI
- Administration of the marketing of seed and other propagating material within each part of the UK
- International obligations

	<b>Plant Varieties and Seeds Committee (PVSC)</b>	<b>National Lists and Seeds Committee (Including Plant Propagating Material and Plant Breeders' Rights) (NLSC)</b>
<b>Role</b>	The PVSC coordinates UK policy on National Listing, Plant Breeders' Rights (PBR) and the certification of seeds and other plant propagating material. It has overall responsibility for National Listing and UK PBR. It has responsibility for the NLSC.	The NLSC manages National Listing, including making listing decisions, and advises on technical aspects of National Listing referred to it by the PVSC. The NLSC has responsibility for a number of technical sub-groups to support its delivery.
<b>Representation</b>	<p>Membership covers the entire <b>policy</b> remit for plant varieties and marketing of seed and other propagating material across the UK.</p> <p>An official representative attends from each administration: DAERA, Defra, Scottish Government and Welsh Government.</p> <p>Advisers in attendance as required by their respective representative and ad hoc representation by the Crown Dependencies for relevant issues.</p> <p>The PVSC secretariat is provided by Defra.</p>	<p>Membership covers the entire <b>technical</b> remit for plant varieties and marketing of seed and other propagating material across the UK.</p> <p>An official representative attends on behalf of each administration: AFBI for DAERA, APHA for Defra, SASA for Scottish Government and Welsh Government.</p> <p>The NLSC may ask any expert or other persons to attend meetings when the need for additional expertise is required.</p> <p>The NLSC secretariat is provided by APHA.</p>
<b>Frequency</b>	<p>The PVSC meets four times a year. If there is a need for additional meetings, these are convened by agreement.</p> <p>The PVSC hold an annual review meeting with the NLSC, to review past work and look forward to work on the horizon.</p>	<p>The NLSC meets four times a year. If there is a need for additional meetings, these are convened by agreement.</p> <p>The NLSC hold an annual review meeting with the PVSC.</p>

The main forum for official level discussion and decision-making is the PVSC and the NLSC. The key decisions that could be taken are: policy decisions concerned with legislative amendments, temporary marketing derogations, equivalence recognition requests; international representation; resolution of issues; reviewing and amending the framework; and procurement of services for PBR and variety registration.

### **Interdependencies**

There are linkages with the UK Plant Health Framework. The two policy areas are closely interlinked, and reference is made to the interdependency in each framework. The Governance structure on page 4 illustrates where these linkages are.

This Framework operates in conjunction with the Forestry Commission's Memorandum of Understanding for the Cross-Border provision of Forestry Functions and Research Delivery. This Framework and the Plant Health Framework link into this MoU via the Plant Health and Forest Reproductive Material (FRM) Coordination Group.

### **Northern Ireland Protocol**

The Northern Ireland Protocol sets out the arrangements agreed between the UK Government and the European Union. The Protocol means that Northern Ireland will remain within the EU's framework for marketing and certification of seed and propagating material. Plant breeders' rights will continue on a UK basis.

In order to facilitate information sharing and ongoing cooperation, this Framework remains UK wide in its scope and DAERA will continue to provide representation at both the PVSC and the NLSC.

## Roles and responsibilities

This framework is an agreement between Defra, Scottish Government, Welsh Government and DAERA describing how they will work together with delivery bodies to provide UK protection for plant breeders' rights, set standards for marketing and certification of seed and propagating material, and ensure these standards are upheld. They will work together to engage with international organisations, co-ordinating a common position to represent an agreed UK view in international affairs.

The public sector delivery bodies are the Animal and Plant Health Agency (APHA (an Agency of Defra)), SASA (a division of the Scottish Government), the Agri-Food and Biosciences Institute (AFBI, Northern Ireland) and the Forestry Commission. Several non-government organisations carry out significant delivery work for performance testing of new varieties, and in England and Wales, for certification and testing of agricultural seed.

### Defra

Responsible for strategic oversight, policy development and legislation in England. It is also responsible for the co-ordination of UK representation at international fora. Certification work in England is undertaken by APHA.

### Welsh Government

Responsible for strategic oversight, policy development and legislation in Wales. APHA undertake delivery services in Wales for certification activities, licensing of businesses and individuals, and enforcement on behalf of Welsh Ministers.

### APHA (an Agency of Defra)

Responsible for the management of certification activities, licensing of businesses and individuals, and enforcement in England and Wales. Most of the technical work in assuring seed company activities is done by NIAB (National Institute of Agricultural Botany) under a contract with APHA. NIAB is responsible for seed testing and the oversight of licensed testing stations. APHA coordinates the delivery of variety registration and PBR. It receives and manages applications and coordinates testing. It manages the Seed Potato Classification Scheme (SPCS) and the Fruit Propagating Certification Scheme (FPCS) in England and Wales.

### DAERA

Responsible for strategic oversight, policy development and legislation in Northern Ireland. DAERA is responsible for certification and marketing of seed and plant propagating material (including forest reproductive material) in Northern Ireland. DAERA is responsible for the administration, enforcement and inspection of certification schemes for seed and plant propagating material. Testing of agricultural seed is undertaken by the Official Seed Testing Station at the Agri-Food and Biosciences Institute (AFBI). DAERA is responsible for licensing of seed samplers and crop inspectors in Northern Ireland.

### AFBI

Is responsible for the testing of agricultural seed at its Official Seed Testing Station on behalf of DAERA.

### Scottish Government

Responsible for strategic oversight, policy development and legislation in Scotland. Certification work in Scotland is undertaken by SASA, a division of Agriculture and Rural Economy Directorate, within the Scottish Government.

### SASA

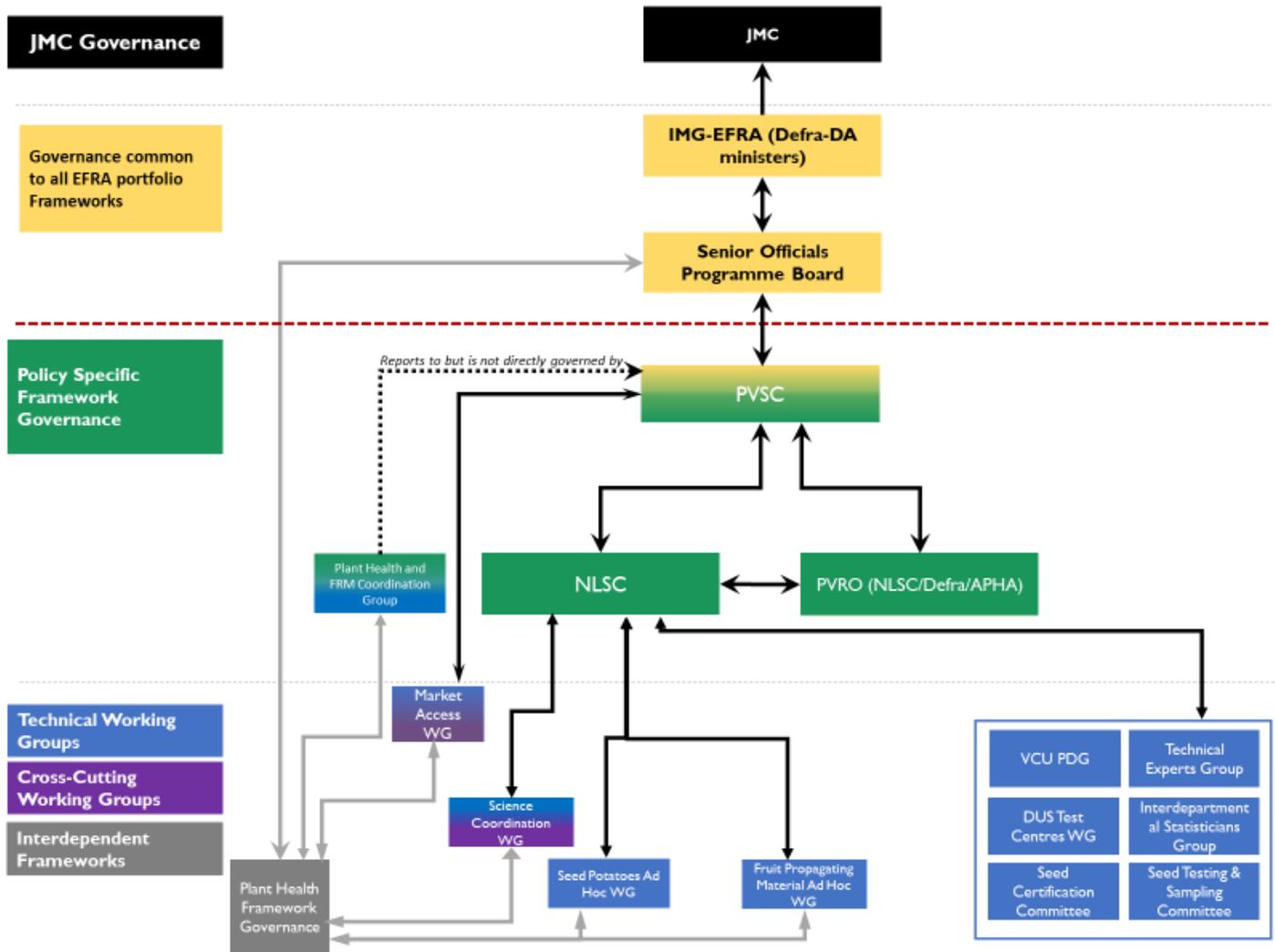
Within the Scottish Government, work is divided up into three areas: (1) Seed Potato Certification is carried out by SASA officials who provide for the administration and inspections as well as a range of scientific activities in support of seed potato classification. (2) Seed Certification, including seed testing, for cereals and non-cereal seed species is a mixture of official and licensed activities undertaken by SASA, SG Agricultural staff and licensed individuals from the seed industry. The licensing, training, examination, official supervision and enforcement work is the responsibility of SASA and Agricultural staff. (3) The inspection and certification of fruit plant and propagating material is undertaken by the Horticulture and Marketing Unit (HMU) located at SASA. HMU also oversee the controls for both ornamental and vegetable plant material.

### Forestry Commission

The Forestry Commission delivers the FRM functions on behalf of Great Britain. The Forestry Commission is responsible for coordination and attendance of the Plant Health and FRM Coordination Group. This group will provide a report of relevant issues to the PVSC on an annual basis, including proposals for changes to marketing regulations, and coordination with DAERA on Northern Ireland issues. It also provides representation on behalf of the UK at the OECD Forest Seed and Plant Scheme Technical Working Group.



## UK Plant Varieties and Seeds Framework Governance Structure



This governance structure illustrates the linkages with the Plant Health Framework and senior overarching Frameworks Governance common to all EFRA (Environment, Food and Rural Affairs) Frameworks



## Below are illustrations of how the UK PVS framework will work in practice

### Considering divergence

The PVS Framework acknowledges the opportunity for policy divergence whilst ensuring the functioning of the UK Internal Market, in line with [JMC \(EN\) principles](#). Where a common approach is not required in order to meet the JMC (EN) principles an “agreement to disagree” is considered an acceptable resolution.

In the spirit of the Framework, a National Authority will not introduce a divergent measure without consultation. When considering a proposal for divergence in one or more administration, the PVSC will consider the evidence-based impact divergence would have across the UK, including on the functioning of the UK internal market and international trade obligations.

If one administration believes a new policy or measure will have an unacceptable impact on any of these areas, and the matter cannot be resolved by the PVSC it can trigger the dispute resolution process. The dispute resolution process should be utilised only when divergence would impact negatively on the ability to meet the JMC (EN) principles.

### Where there is a dispute

A dispute arises where one administration proposes to introduce a change that is likely to have an unwanted impact on another administration and this cannot be rectified at official level so must be escalated to Ministers at the Inter-Ministerial Group for the Environment, Food and Rural Affairs (IMG-EFRA) to discuss and resolve.

If there is a disagreement on a decision within the scope of the framework, effort will be made to resolve this at the earliest opportunity through the NLSC and/or the PVSC. The starting point is discussion through the NLSC on technical issues and the PVSC on policy issues. The issue may be escalated first to Senior Officials and, if not resolved, to IMG EFRA. In the exceptional situation that a dispute cannot be resolved at this level, the final port of call would be the Joint Ministerial Council.

When a proposal is raised at official level, consideration will be given to the urgency of the proposal by the PVSC who will develop and agree an assessment. This assessment will guide timescales for escalation of disagreement within the governance structure, with decisions requiring a more immediate resolution being escalated more quickly.

### Where policy changes

All four administrations must be in agreement for the change. The most likely sources of legislative change or proposals for change are: international convention and scheme changes, market conditions, the NLSC and its supporting groups, and industry practice. Changes may initially be through a temporary experiment.

## Data collection, cooperation and collaboration

The administrations will endeavour to provide each other with full and timely access to information including relevant data and scientific research in the spirit of openness and transparency. They will keep each other informed of contacts with other countries on relevant trade-related matters and on matters of mutual interest, including opportunities for collaboration and sharing of resources, such as in research projects and developments. They will also inform each other on significant contact with stakeholders and external communications.

The administrations will work together to develop policy on matters of mutual interest, contributing to the overall UK policy position for international meetings, including timely reporting of outcomes, and liaising on proposals emanating from them. This reflects recognition by the four administrations that cooperation is necessary to meet their respective policy and business objectives.

The administrations are responsible for confidentiality, to ensure that information that they each may provide is subject to appropriate safeguards and that the confidentiality and sensitivity of such information is respected.

## International Obligations

Decisions made under the PVS Framework must be in line with the UK's international obligations.

**UPOV** - The UK is a signatory to the International Convention for the Protection of New Varieties of Plants and maintains its legislation on PBR in compliance with the convention. The UK shares the UPOV (International Union for the Protection of New Varieties of Plants) mission to “provide and promote an effective system of plant variety protection, with the aim of encouraging the development of new varieties of plants, for the benefit of society”.

**OECD** - The UK is a member of the Organisation for Economic Co-operation and Development (OECD) schemes for the Varietal Certification of Seed and for the Certification of Forest Reproductive Material. OECD promotes the use of certified agriculture seed that is of consistently high quality. As a member, the UK is obliged to strictly observe the OECD Basic Principles, Method of Operation, and Rules and Regulations, as well as a requirement to maintain a National List.

**ISTA** - The UK is a member of the International Seed Testing Association (ISTA). Representatives from SASA and NIAB (an independent plant science organisation working under a contract with Defra) attend ISTA meetings on behalf of the UK. SASA and NIAB have ISTA accredited laboratories.

**UNECE** - The United Nations Economic Commission for Europe (UNECE) convenes a Working Party on agricultural quality standards which is applied to trade in seed potatoes.