



Mrs Ciara Ferguson MLA, Chairperson
Windsor Framework Democratic Scrutiny
Committee (DSC)

REF: DSC89/24

6 May 2025

The Rt Hon. the Lord Murphy of Torfaen

Issued via email to: independentreview@cabinetoffice.gov.uk

Lord Murphy, a chara,

Windsor Framework Democratic Scrutiny Committee consideration of reserved matters

At its meeting on 1 May 2025, the Windsor Framework Democratic Scrutiny Committee (DSC) agreed that I should write to you to highlight the issues it is experiencing when seeking to scrutinise EU acts and proposed EU acts which cover matters reserved to the British Government.

At this meeting, the Committee considered a proposed EU Regulation on the safety of toys. The Committee has made various attempts to gather evidence on this proposal. Following a request for an initial assessment of impact, the Executive Office advised that Northern Ireland departments would be unable to provide information on the proposal. They stated that product safety is the responsibility of the Office for Product Safety and Standards (OPSS) under the Department for Business and Trade, and stated that there is no direct counterpart for the OPSS in Northern Ireland. They highlighted that responsibility for product safety sits with local councils. Therefore, the Committee wrote to local councils, the British Government, and the Consumer Council to seek their views on the likely impact of the proposed act.

While SOLACE NI responded on behalf of local councils, it advised that they were unable to offer any additional insight and suggested that the OPSS would be best placed to advise on the proposal. The Consumer Council stated that it does not have any statutory remit in relation to product safety, nor any consumer data or research on this topic. It informed the DSC that it had highlighted the Committee's request to the OPSS, who confirmed that "queries in relation to reserved matters such as product safety should be directed to the Windsor Framework Task Force which will consult OPSS and other relevant departments to gather information on the impact of proposals".

The Committee had contacted the Windsor Framework Task Force, which responded by pointing to the British Government's Explanatory Memorandum (EM) which was produced in November 2023. It stated that the Department for Business

and Trade would produce a further EM to support scrutiny after the proposal completes its legislative passage and is published. However, this does not assist the Committee in its current task of gathering evidence and considering the potential impact of the proposal.

The Committee awaits a response from the First and deputy First Minister to its request that, for EU acts which deal with matters that are reserved, excepted, or the responsibility of councils, a structured solution is found to identify the most relevant Northern Ireland department to engage with the Committee.

The Committee has therefore, to date, been unable to properly scrutinise this proposal, and has not been able to question those with responsibility for this policy area.

As you are undertaking the Independent Review of the Windsor Framework following the democratic consent vote, the Committee agreed to write to you to highlight this unsatisfactory situation. This example is of one of a number of occasions where the Committee has experienced difficulty in gathering information and exercising its scrutiny functions in relation to reserved matters.

The Committee had previously written to the Executive Office to highlight the importance of their engagement with the DSC: it expects officials to attend when the EU act under consideration is relevant to a department, regardless of whether the policy area is reserved. The DSC does not consider the fact that a replacement EU act relates to a reserved matter to be a barrier to departments in providing an assessment of impact in relation to the sectors for which it has responsibility. However, the Committee recognises that sometimes departments will not be able to provide detailed and comprehensive analysis of certain matters.

When you met with Members of the Committee in March, we discussed engagement on reserved matters. A possible solution could be direct engagement and occasional remote attendance of officials from the British Government and relevant statutory bodies, who would be able to brief the Committee, and answer Members' questions.

The Committee would welcome your consideration of this matter as part of the Independent Review.

I am copying this letter to Tonia Antoniazzi MP, Chair of the Commons Northern Ireland Affairs Committee, and Lord Carlile of Berriew CBE KC, Chair of the Lords Northern Ireland Scrutiny Committee.

Le meas,

A handwritten signature in dark ink, appearing to read 'Ciara Ferguson', with a stylized, cursive script.

Ciara Ferguson, MLA
Chairperson, Windsor Framework Democratic Scrutiny Committee