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Our Ref: COR 0684/2025
Your Ref: DSC 211/25
15th December 2025

Dear Ciara,

Departmental Assessments of Impact and review of Windsor Framework Democratic Scrutiny Committee (DSC) operations.

Thank you for your letters dated 3 July, 3 October and 27 November. We would welcome an informal meeting between you and our officials, to allow us a fuller understanding and discussion of the specific issues and concerns you have raised.

We have asked Lynsey Moore, the Department's Director of Europe Strategy and International Relations to reach out to the Committee Clerk to arrange a time that suits you best.

Yours sincerely

Michelle O'Neill MLA
First Minister

Emma Little-Pengelly MLA
deputy First Minister



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

REF: DSC 211/25

27 November 2025

Ms Michelle O'Neill, MLA, First Minister
Ms Emma Little-Pengelly, MLA, deputy First Minister

The Executive Office

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Michelle agus Emma, a chairde

Review of Windsor Framework Democratic Scrutiny Committee (DSC) operations

In January of this year, as part of the abovementioned review, the Clerk of the DSC met with officials from the Executive Office (TEO) to discuss the handling of notifications by departments and general considerations around reserved/ excepted matters.

At that meeting, TEO officials advised that senior officials across the Executive departments would be meeting to discuss the issue. Information on the outworking of that meeting was requested by the Clerk and TEO officials advised earlier this month that they are *“... continuing to refine the product we have been working on. We will alert you when we have full endorsement to circulate to the Committee.”*

At its meeting on 27 November 2025, the DSC agreed that I write to you to ask for more information about the product being developed, and for an indication of when details of the final product will be shared with the Committee.

At the same meeting, the DSC agreed to forward a response it received from the British Government – as part of the same review - in relation to the provision of Explanatory Memoranda, and reserved/excepted and devolved policy areas. The DSC agreed to ask for TEO’s comments on the response and confirmation that any new product developed will be in line with it. The text of the British Government’s response is appended to this letter.

Finally, please note that the DSC intends to invite officials from your Department's Office in Brussels to brief the Committee on a biannual basis in relation to proposals making their way through the EU legislative system, and the Office's engagements on them.

A timely reply would be appreciated.

Le meas,

A handwritten signature in black ink, appearing to read "Ciara Ferguson".

Ciara Ferguson, MLA
Chairperson, Windsor Framework Democratic Scrutiny Committee
ENC

APPENDIX – RESPONSE FROM CABINET OFFICE

Explanatory memoranda (EMs), reserved and devolved policy areas

Review commentary and questions

On quite a few occasions, EMs have been provided to the DSC ‘late in the day’.

- *How does the EM process work and what are the hold-ups in getting EMs to the DSC?*
- *What measures are being considered/could be put in place to improve the flow of this information to the DSC?*

Departments here have said that they have had difficulties in obtaining the information they need from UKG in sufficient time to provide meaningful assessments of impact to inform the DSC’s decisions, particularly (but not exclusively) in relation to EU acts dealing with reserved matters.

- *What steps are taken to ensure departments here have the information they need to provide the DSC with a meaningful assessment of the impact of published replacement EU acts, including the likelihood and implications of different laws and regulatory frameworks applying here and in Britain?*
- *What additional steps can be taken by UKG to ensure that the DSC is provided with the necessary information when considering new or replacement acts concerning areas of policy which are reserved?*

Cabinet Office response

You previously raised with us concerns expressed by NI departments that there had been difficulty in them obtaining information from the Government. I can confirm that the Cabinet Office has reminded line Departments of the expectation that line Departments engage with relevant devolved authorities on the drafting and preparation of Explanatory Memoranda as should be custom and practice. Similarly, NI departments can also request information from the Government on policy issues and make representations to them at an early stage if they wish.

I would emphasise that EU proposals are shaped by policy development in the EU institutions. The Government, or for that matter the Executive, may not reach a firm view on how to respond to a particular element of a proposal until later in the process as it undergoes passage not least as those elements may be contested within the EU institutions. Notwithstanding this point, an NI department is entitled to reach its own independent views on the legislation as it stands, make representations to the Government on those issues, and similarly advise the Committee. This is an important part of the policy process as an NI department may identify an issue or opportunity for

NI specifically that may not have been spotted within Government. NI departments have previously made various representations to the Government of their perspectives on Windsor Framework matters, even where those representations have concerned policy issues excepted or reserved from the devolution settlement.

EU proposals can take a significant period of time to complete legislative passage. It can be the case that a Government department and an NI department will have discussed the initial Explanatory Memorandum and policy issues some time before a policy enquiry is received from the Committee, and the post holders may have changed in that time. Explanatory Memoranda should usually signal where there has been engagement with the Devolved Administrations for this reason. I believe we have had cases before where it has been claimed to us that engagement has not been undertaken and it in fact has - I believe this includes Toy Safety (see [paras.8-11](#) of the EM) and Digitisation and Common Specifications (see [para.11](#) of the EM). Going forward, if an NI department suggests that they have not been engaged on an Explanatory Memorandum or have been unable to engage a Government department on a regulation in question, we would welcome you signalling that to us and we can always check and escalate it appropriately.

You should start to see these changes filtering through Explanatory Memoranda, as the updated template is taken up and used by line Departments. I would also note that some Departments do rely on the previous cleared version of an Explanatory Memorandum for an EU proposal to author an updated edition on the published legislation, meaning that it may take a little while into the legislative cycle for this to cover all submissions that you receive.

I think we would all share the view that the approach to scrutiny will always require an eye to ensuring this works well for the Committee. The Government will continue to consider these issues as it develops its response to the report of the Independent Review of the Windsor Framework, which was earlier this month furnished to the Assembly by the Northern Ireland Secretary. We are also conscious that there are relevant recommendations in that review to the Committee's own work, and the empowerment of NI departmental officials to support it, and you would have our support in working with them on those recommendations also to ensure you get the right answers from them.



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

REF: DSC 205/25

3 October 2025

Ms Michelle O'Neill, MLA, First Minister
Ms Emma Little-Pengelly, MLA, deputy First Minister

The Executive Office

Issued via email to: PS.Ministers@executiveoffice-ni.gov.uk

Michelle agus Emma, a chairde

COM/2023/462 - Proposal for a Regulation on the safety of toys.

I refer to my enclosed letter on behalf of the Windsor Framework Democratic Scrutiny Committee (DSC) dated 3 July 2025 in relation to the above proposed EU act. In it, I requested confirmation of which departments the proposal - and any other EU acts dealing with product safety – would be relevant to.

I also asked for each of those departments to tell the DSC (so far as they are aware) whether the proposed EU act will have an impact as far as the relevant Minister's official responsibilities are concerned, and if so, the likelihood that the impact will be significant.

A response was requested by 14 August 2025. At its meeting on 2 October 2025, the Committee agreed that I would write to you to reiterate that a response on this matter is expected urgently.

The DSC understands that The Executive Office (TEO) was contacted by the British Government in relation to this proposed EU act in October 2023, to check whether it had an interest in the Explanatory Memorandum being drafted at the time and to ask if TEO wished to provide views on the proposal.

The Committee therefore also requests confirmation of what steps have been taken – both when TEO was contacted in 2023 and also since the DSC's first request in February 2025 – to engage relevant departments and properly assess the impact it may have here, including by seeking views from departments on its impact on public health and the local economy.

I look forward to hearing from you as soon as possible.

Le meas,

A handwritten signature in black ink, appearing to read "Ciara Ferguson".

Ciara Ferguson, MLA

**Chairperson, Windsor Framework Democratic Scrutiny Committee
ENC**



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

REF: DSC 186/25

3 July 2025

Ms Michelle O'Neill, MLA, First Minister
Ms Emma Little-Pengelly, MLA, deputy First Minister

The Executive Office

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Michelle agus Emma, a chairde

Departmental Assessments of Impact

I refer to your letter dated 4 June 2025 in relation the matter above, and the Committee's request for confirmation of which department is the most appropriate point of contact when dealing with EU acts relating to product safety, such as the following: [**COM/2023/462 - Proposal for a Regulation on the safety of toys.**](#)

The Committee considered your letter on 26 June 2025 and agreed that I would write to thank you for your response, and acknowledge the information you provided on the work of officials in the Executive Office (TEO) liaising both across the NICS, and with the British Government, to support departmental officials engaging effectively with Committee.

In your letter, you note that "*there may be further instances where there is no defined departmental owner of a regulation in question*" and indicate that TEO's approach to dealing with those instances is likely to vary on a case-by-case basis.

The Committee recognises that there may be instances where there is no defined departmental owner in respect of the implementation of a proposed or replacement EU act, and that this may be because the act in question relates to policy which is either reserved or excepted or where policy enforcement is the responsibility of local councils.

However, the Committee is also clear that, where this position arises, this does not necessarily mean that a department cannot take a view on the likely impact of the act, insofar as that impact relates to the Minister's

devolved responsibilities. In fact, Ministers and departments already routinely (and quite rightly) express views – both inside and outside of Assembly proceedings - on the likely impact of proposals or decisions on reserved and excepted matters, insofar as the impact relates to a Minister's devolved responsibilities. The Committee appreciates instances where departmental officials have previously engaged with it on this basis (for example in relation to Directive (EU) 2024/2853 regarding liability for defective products).

The DSC therefore agreed that I should re-state the Committee's long held position that, where a proposed or published replacement EU act is relevant to a department (i.e. where it potentially could have an impact on matters which relate to a Minister's devolved responsibilities), the Committee expects to be told that the replacement act either:

- a) Will not have an impact as far as the relevant Minister's official responsibilities are concerned; or
- b) May/will have an impact and, if so, the likelihood that the impact will be significant.

In the case of the proposed EU act in question, councils may be responsible for the enforcement of product safety legislation, but departments would still be best placed to provide views on the likely impact (if any) of applying/ not applying the EU act on a number of areas which are the responsibility of Ministers, including the local economy and public health.

On that basis, the Committee requests that you confirm which departments this proposal – and any other EU acts dealing with product safety – would be relevant to. The Committee also asks that each of those departments tells the Committee (so far as they are aware) whether the proposed EU act will have an impact as far as the relevant Minister's official responsibilities are concerned, and if so, the likelihood that the impact will be significant. In the first instance, this can be done by way of a written assessment of impact provided to the Committee in the usual manner.

That information will be a valuable source of assistance to the Committee, as we seek to ascertain the likely level of impact on communities here – if any – that this EU act, and others like it, may have.

If possible, I would be grateful for a response by 14 August 2025.

Le meas,



Ciara Ferguson, MLA
Chairperson, Windsor Framework Democratic Scrutiny Committee