



**NORTHERN IRELAND
ASSEMBLY**

COMMITTEE ON PROCEDURES

24 June 2026

Dear Member

The Committee on Procedures has been considering how delegated powers in Bills are scrutinised and whether Standing Orders should codify the current role undertaken by the NI Assembly's Examiner of Statutory Rules (ESR) by convention, in relation to this scrutiny and the publication of her reports.

At present, Assembly committees scrutinise delegated powers in Bills with technical support from the ESR. Guidance from the NICS Legislative Programme Secretariat in the Executive Office recommends that a Department should provide a Delegated Powers Memorandum (DPM) for all Bills, except those proceeding by accelerated passage. The Guidance also states that the DPM should be provided to the relevant committee as soon as possible after the Bill is introduced and no later than the completion of Second Stage of the Bill. Assembly committees will routinely publish the DPM as part of the Committee Report on the Bill. This procedure is not formally set out in Standing Orders but has operated by convention since 2007. Non-Executive Bills do not routinely provide a DPM.

The benefits to the scrutiny of the DPM by committees include facilitating detailed analysis of

- What the delegated power does;
- Whether it is appropriate for the power to be left to delegated (subordinate) legislation rather than included in the Bill itself; and
- Whether the choice of Assembly control provided for each power (i.e. confirmatory, affirmative, negative or none) is the most appropriate.

The Committee considered this issue following a recommendation in the Chairpersons' Liaison Group's 2020 report *Strengthening Committee Scrutiny*¹. That

¹ [Report on Strengthening Committee Scrutiny](#)

report made a recommendation for the Committee on Procedures to examine whether Standing Orders should include the role of the ESR in scrutinising delegated powers in Bills, including those taken by accelerated passage, and whether ESR advice to committees should be published.

The Committee undertook its investigations by being briefed by the Examiner of Statutory Rules, Ms Angela Kelly, noting that, while current arrangements for her role are working well, they do not allow for publication of her reports. This creates a potential lack of transparency for Departments, stakeholders, and the public regarding the decision by a committee on delegated powers in a Bill. The Committee therefore agreed to formalise the ESR's role in Standing Orders, including the publication of her reports. It also agreed that the provision would not apply to accelerated passage Bills because the role of the ESR is linked to that of the relevant committee and such Bills are not referred to a committee. The Committee will, however, recommend that this issue is considered by our successor committee in the new mandate.

As previously mentioned, NICS Guidance is that Departments provide a DPM to statutory committees. We explored whether to formalise this provision and to extend the draft Standing Order by making it mandatory that a DPM should be provided with every Bill that was introduced. We asked the Bill Office for an opinion and were informed that with a few exceptions, this convention is working well and committees reported few issues or problems. We also sought the views of the Executive Office on this possible provision but have received no reply.

We also asked the Bill Office whether non Executive Bills such as Members Bills or Committee Bills should provide a DPM. We were informed that it would be good practise to do so, and that although most Members Bills had few if any, delegated powers, in the future, non Executive Bills would be asked to provide a DPM. For most Members and Committee Bills this could be facilitated through the contract that the Bill Office have in place for drafting Bills. The Bill Office also indicated that for those Members Bills currently in progress of being introduced or already introduced, the ESR has indicated that it would be possible to undertake the scrutiny without the provision of a DPM.

Content that we had explored the option, the Committee decided not to consider the mandatory provision of DPMs any further. It was content that the draft Standing Order would focus on codifying the current role of the ESR.

Having settled our policy position we issued instructions for the drafting of a new Standing Order and after a few revisions, the Committee agreed, at its meeting on 10 June 2026, a motion for a new Standing Order that is attached to this letter.

We hope that Members find the information in this letter useful and that it is helpful in their contribution during the debate.

Yours sincerely

A handwritten signature in blue ink that reads "Kellie Armstrong". The signature is written in a cursive, flowing style.

Kellie Armstrong MLA
Chairperson, Committee on Procedures

Motion: New Standing Order

After Standing Order 43 insert:

43A Scrutiny of Delegated Powers in Bills

- (1) In carrying out its functions under Standing Order 33(2), the appropriate committee may, among other things, consider and report on the following—
 - (a) whether the provisions of the Bill inappropriately delegate legislative power, and
 - (b) whether the exercise of legislative power provided for in the Bill is subject to an inappropriate degree of scrutiny by the Assembly.
- (2) The appropriate committee may delegate to the Examiner of Statutory Rules the functions set out in this Standing Order.
- (3) In this Standing Order, the “appropriate committee” is the committee to which the Bill is referred under Standing Order 33.