



Mr Philip McGuigan MLA
Chair, Windsor Framework Democratic Scrutiny Committee
Northern Ireland Assembly
Room 371, Parliament Buildings
Stormont
BT4 3XX

By email: committee.windsorframework@niassembly.gov.uk

5th August 2024

Your ref. DSC 187/24

Re. EU Regulation 2024/1849 & Commission Notice -Application of Regulation (EU) 2024/1849 in respect of Northern Ireland

Dear Philip

Thank you for your correspondence of 1 August to ask if our view regarding the use of the Stormont Brake has changed following the European Commission derogation Notice of 19 July in respect of Northern Ireland.

The Commission Notice of 19th July enabling dental amalgam to continue to be used in Northern Ireland, *'for the purpose of dental treatment for patients residing in the United Kingdom, and to continue importing dental amalgam from outside the Union for that purpose until 31 December 2034 or until the date agreed under the framework of the Minamata Convention on Mercury, whichever is earlier'* -subject to authorities of the UK complying with specific conditions -was received as a highly significant and welcome breakthrough.

As a result of the derogation being secured, we have moved from being in a position of imminent risk whereby EU Regulation 2024/1849 would have imposed a direct ban on dental amalgam use in Northern Ireland from 1 January 2025, to having a way forward which provides breathing space to enable us to plan the managed phase-down of dental amalgam use according to the particular circumstances of our local population.

That is why we have welcomed the derogation as set out in the Commission Notice, but equally as important as the derogation itself is the new onus which the associated conditions put on our authorities to, *'take the necessary measures to ensure regular and consistent progress'*, including an update of the Northern Ireland Plan to phase down the use of dental amalgam.

While the direction of travel is clear, the lack of government action previously to create the conditions to enable amalgam phase-out which led to this crisis should serve as a wake-up call.

While we have bought time, we are urging Stormont and the UK Government to follow through on dental reform:

- By funding and implementing Northern Ireland's Oral Health Improvement Plans (OHIPs) to improve population oral health
- By reforming and adequately investing in our dental services to stabilise General Dental Services by taking forward dental payment and contract reform
- By growing our Community Dental Service and Hospital Dental Service workforce, informed by the Dental Workforce Review work carried out last September
- By placing a renewed focus on new treatment materials and techniques.

We urge authorities to commit to following-through on prevention initiatives, reforming dental services, and giving a greater focus to new treatment materials and techniques.

We expect to be fully consulted on the implementation implications of the conditions of the derogation in due course; we would expect the burden on practices and practitioners to be absolutely minimal.

We believe the overall approach set out in the derogation offers a credible and workable way forward for Northern Ireland. So long as our authorities commit to redoubling efforts to comply with the conditions contained in the derogation to enable us to make '*regular and consistent progress*' on phasing down amalgam use, we do not consider application of the Stormont Brake is required. Significant reform and investment in dentistry must be progressed, as envisaged in the [Northern Ireland Plan to phase down the use of dental amalgam](#).

We are appreciative of the work of your committee in engaging closely with us around our concerns, as well as the extensive discussions that have taken place between officials and political representatives at NI, UK and EU levels to get us to the point of derogation.

Amalgam encapsulates the massive challenges facing Health Service dentistry here, while recent developments -not least the securing of a derogation -have also given a glimmer of hope of what can be achieved when all parties come together to find a workable way forward.

This isn't mission accomplished; we now need to see follow-through on commitments, with government supporting and working with the profession to stabilise and invest in the foundations of our dental services, and to take forward population oral health initiatives so that we are fully equipped to confidently move beyond amalgam, delivering tangible benefits to the oral health of our population along that journey.

This derogation presents us with a unique opportunity -and I would suggest a legal imperative on government -to take dentistry forward.

Yours sincerely



Tristen Kelso
Northern Ireland Director



Jessica Jacques, Senior Assistant Clerk
Windsor Framework Democratic Scrutiny
Committee (DSC)

Ref: DSC 187/24

1 August 2024

Tristen Kelso,
Northern Ireland Director, British Dental Association (BDA)
Issued via email to: Tristen.Kelso@bda.org

Dear Tristen,

[Regulation \(EU\) 2024/1849 of the European Parliament and of the Council of 13 June 2024 amending Regulation \(EU\) 2017/852 on mercury as regards dental amalgam and other mercury-added products subject to export, import and manufacturing restrictions](#)

[Commission Notice – Application of Regulation \(EU\) 2024/1849 of the European Parliament and of the Council amending Regulation \(EU\) 2017/852 on mercury as regards dental amalgam and other mercury-added products subject to export, import and manufacturing restrictions to and in the United Kingdom in respect of Northern Ireland](#)

At its meeting on 1 August 2024, the Windsor Framework Democratic Scrutiny Committee (DSC) considered a submission from the British Dental Association to its public consultation on Regulation (EU) 2024/1849.

The Committee agreed to write to you to request clarity, in light of the above European Commission Notice of 19 July, on whether the BDA's view has changed regarding the use of the Stormont Brake (as indicated in your correspondence to the Committee of 5 March 2024).

I would appreciate a response by **7 August 2024**.

Yours sincerely,

Jessica Jacques, Senior Assistant Clerk
Windsor Framework Democratic Scrutiny Committee