



NORTHERN IRELAND
HUMAN RIGHTS
COMMISSION

Equality Commission

FOR NORTHERN IRELAND

**Submission of the NIHRC and ECNI to the
Northern Ireland Scrutiny Committee
Call for Evidence on
Strengthening Northern Ireland's Voice in
the Context of the Windsor Framework**

April 2025

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Summary of Recommendations

The Commissions recommend that:

- 3.7** the UK Government and EU officials ensure ongoing timely and structured engagement with NI civil society including equality and human rights stakeholders, including on matters relating to Windsor Framework Article 2. This engagement should include with those working on rights and equality on a cross-border basis.
- 3.10** the UK Government and EU Commission continue to keep them informed of any future EU equality law developments relevant to Annex 1 equality directives, including via the Joint Consultative Working Group, and provide the opportunity to highlight in advance any implications of those changes for equality law in NI.
- 3.12** the UK Government and NI Departments ensure that Explanatory Memoranda/notes and Human Rights Memoranda/impact assessments on Bills and draft statutory instruments that may engage Windsor Framework Article 2 set out detailed consideration of compliance.
- 3.17** the Committee seeks clarification from the Secretary of State for NI and from the Executive Office on what further steps will be taken to embed detailed consideration of Windsor Framework Article 2 compliance into processes and procedures across Whitehall and the NI Civil Service, including the timeline for doing so.
- 3.18** the UK Government and NI departments roll out effective and comprehensive training on Windsor Framework Article 2 to all relevant officials, and act promptly to ensure guidance on policy and legislative development include detailed steps for consideration of Article 2.
- 3.21** the Committee considers if there are sufficient mechanisms in place to ensure effective parliamentary scrutiny in terms of Windsor Framework Article 2 compliance by the UK Government, particularly in the absence of the European Scrutiny Committee.
- 4.7** the Secretary of State for NI, the NI Assembly and the Windsor Framework Democratic Scrutiny Committee integrate equality and human rights considerations into the revised process under Article 13(4) of the Windsor Framework, as well as at all key stages of the 'Stormont Brake' mechanism.

- 4.8 the Windsor Framework Democratic Scrutiny Committee undertakes meaningful and timely engagement with the Commissions and with equality and human rights groups in NI, in relation to a proposed EU measure, or a replacement EU Act, to seek their views on the implications for the promotion and protection of equality and human rights in NI.**
- 5.7 the secretariat of the Specialised Committee establishes a formal communication channel with the Commissions to ensure early engagement on anticipated changes or additions to legislation on matters relating to equality and human rights in NI, including Windsor Framework Article 2.**
- 6.5 The Committee may wish to seek clarity from the UK Government on what consideration is given to equality and human rights in NI by the EU Commission in impact assessments of draft EU proposals.**

1.0 Introduction

- 1.1 The Northern Ireland Human Rights Commission (the NIHRC), pursuant to section 69(1) the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights in Northern Ireland (NI).
- 1.2 The Equality Commission for Northern Ireland (ECNI) is an independent public body established under the Northern Ireland Act 1998. Its powers and duties derive from a number of equality statutes providing protection against discrimination on the grounds of age, disability, race, religion and political opinion, sex and sexual orientation. Its remit also includes overseeing the statutory duties on public authorities on the promotion of equality of opportunity and good relations under Section 75 of the Northern Ireland Act 1998.
- 1.3 The NIHRC and ECNI (the Commissions), pursuant to section **78A(1) and 79B(1)** of the Northern Ireland Act 1998, respectively, are required to monitor and report on the implementation of Windsor Framework Article 2.¹ In accordance with these functions, the Commissions welcome this opportunity to provide this joint submission to the NI Scrutiny Committee to inform its inquiry into strengthening Northern Ireland's voice in the context of the Windsor Framework. In this submission, the Commissions have focused on addressing only those questions in the Committee's call for evidence which fall within the scope of our respective roles and remits.

2.0 Windsor Framework Article 2

- 1.4 Windsor Framework Article 2 requires the UK Government to ensure that no diminution of rights, safeguards and equality of opportunities contained in the relevant part of the Belfast (Good Friday) Agreement 1998 occurs as a result of the UK's withdrawal from the EU.² This includes an obligation to "keep pace"

¹ The Windsor Framework was formerly known as the Protocol on Ireland/Northern Ireland to the Agreement on the Withdrawal of the UK of Great Britain and NI from the EU and the EEAC, 24 January 2020 (UK-EU Withdrawal Agreement). All references to the Protocol in this document have been updated to reflect this change (see Decision No 1/2023 of the Joint Committee established by the Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023 laying down arrangements relating to the Windsor Framework).

² Section 7A, EU (Withdrawal) Act 2018 gives effect to all the rights obligations and remedies arising under the UK-EU Withdrawal Agreement without the need for further enactment.

with any changes made by the EU to six equality directives³ listed in Annex 1 to the Windsor Framework, to the extent that such changes improve the minimum levels of protection.⁴ This keeping pace obligation requires monitoring and compliance with relevant current and future Court of Justice of the European Union (CJEU) case law across these different areas and different equality and non-discrimination grounds.⁵ The Commissions have, so far, identified the EU Pay Transparency Directive⁶ and two directives on binding standards for equality bodies,⁷ which will require NI law to be amended to keep pace with EU developments which enhance rights ahead of the transposition deadline.

1.5 For other EU obligations which underpin the rights, safeguards and equality of opportunity in Windsor Framework Article 2, the UK Government commitment to ensure ‘no diminution’ is measured by the relevant EU standards as they were on the 31 December 2020.⁸

1.6 The NI Court of Appeal and High Court have handed down rulings interpreting Windsor Framework Article 2, the Belfast (Good Friday) Agreement chapter

³ These are the Racial Equality Directive (Directive 2000/43/EC, ‘Council Directive on Implementing the Principle of Equal Treatment between Persons Irrespective of Racial or Ethnic Origin’, 29 June 2000); the Employment Equality (Framework) Directive (Directive 2000/78/EC, ‘Council Directive on Establishing a General Framework for Equal Treatment in Employment and Occupation’, 27 November 2000); the Gender Goods and Services Directive (Directive 2004/113/EC, ‘Council Directive on Implementing the Principle of Equal Treatment between Men and Women in the access to and supply of goods and services’, 13 December 2004); Gender Equality (Employment) Directive (Directive 2006/54/EC, ‘Directive of European Parliament and of the Council on the Implementation of the Principle of Equal Opportunities and Equal Treatment of Men and Women in Matters of Employment and Occupation (Recast)’, 5 July 2006); the Self-Employment Equality Directive (Directive 2010/41/EU, ‘Directive of the European Parliament and of the Council on the Application of the Principle of Equal Treatment between Men and Women Engaged in an Activity in a Self-employed Capacity’, 7 July 2010); and the Equality in Social Security Directive (Directive 79/7/EEC, ‘Council Directive on the Progressive Implementation of the Principle of Equal Treatment for Men and Women in Matters of Social Security’, 19 December 1978).

⁴ Article 13, Windsor Framework to the UK-EU Withdrawal Agreement.

⁵ Article 13(3), Windsor Framework.

⁶ Directive 2023/970/EU, ‘EU Parliament and Council Directive to Strengthen the Application of the Principle of Equal Pay for Equal Work or Work of Equal Value between Men and Women through Pay Transparency and Enforcement Mechanisms’, 10 May 2023; Equality Commission for NI and NI Human Rights Commission, ‘Briefing Paper: The EU Pay Transparency Directive: The UK Government’s dynamic alignment obligations relating to Windsor Framework Article 2’ (ECNI and NIHRC, 2024).

⁷ Directive 2024/1499/EU, ‘EU Council Directive on Standards for Equality Bodies in the Field of Equal Treatment between Persons Irrespective of their Racial or Ethnic Origin, Equal Treatment in Matters of Employment and Occupation between Persons Irrespective of their Religion or Belief, Disability, Age or Sexual Orientation, Equal Treatment between Women and Men in Matters of Social Security and in the Access to and Supply of Goods and Services, and Amending Directives 2000/43/EC and 2004/113/EC’, 7 May 2024; Directive 2024/1500, ‘EU Parliament and Council Directive on Standards for Equality Bodies in the Field of Equal Treatment and Equal Opportunities between Women and Men in Matters of Employment and Occupation, and Amending Directives 2006/54/EC and 2010/41/EU’, 14 May 2024.

⁸ NI Human Rights Commission and Equality Commission for NI, ‘Working Paper: Scope of Article 2(1) of the Ireland/Northern Ireland Protocol to the UK-EU Withdrawal Agreement 2020’ (NIHRC and ECNI, 2022); UK Government, ‘UK Government Commitment to No-diminution of Rights, Safeguards and Equality of Opportunity in Northern Ireland’ (NIO, 2020), at para 13.

and the approach to relevant EU law,⁹ with further proceedings expected.¹⁰ Though the Belfast (Good Friday) Agreement was neither drafted for this purpose, nor in tight legal terms, the courts have expressed no difficulty in utilising its content as a signpost to the hard legal requirements of relevant EU law.

1.7 In *Dillon*¹¹, the NI Court of Appeal considered Article 4 of the UK EU Withdrawal Agreement and section 7A of the EU (Withdrawal) Act 2018 before confirming that:

- Windsor Framework Article 2 has direct effect and can be relied on in Court;¹²
- The rights, safeguards and equality of opportunity chapter in the Belfast (Good Friday) Agreement is not to be narrowly construed or regarded through the lens of the conflict but consists of a “broad suite of rights” and extends “further than those rights specifically listed”;¹³
- EU law that underpins these rights and bound the UK prior to EU withdrawal continues to set minimum standards below which the law in NI must not fall;¹⁴ and
- Disapplication of offending provisions “is the correct remedy” for breach of Windsor Framework Article 2.¹⁵

1.8 Though subject to appeal, the decisions of the courts have, to date, aligned with the Commissions’ analysis set out in our working paper¹⁶ and we welcome the recognition by the courts of the value of our submissions.¹⁷

3.0 Stakeholder Engagement Under the Windsor Framework

⁹ See, for example, *Dillon & Ors v Secretary of State for NI* [2024] NICA 59 and *Re NIHRC and JR295* [2024] NIKB 35.

¹⁰ Jayne McCormack, ‘Criticism of Courts’ decision to allow Legacy Act appeal’, *BBC News*, 10 April 2025.

¹¹ *Dillon & Ors v Secretary of State for NI* [2024] NICA 59

¹² *Ibid* at paras 57, 63-72, 83 – 85, 89.

¹³ *Ibid* at para 115.

¹⁴ *Dillon & Ors v Secretary of State for NI* [2024] NICA 59 at paras 117 and 121. See also *Re NIHRC and JR295* [2024] NIKB 35 at para 171.

¹⁵ *Dillon & Ors v Secretary of State for NI* [2024] NICA 59 at paras 57 and 151-158.

¹⁶ NI Human Rights Commission and Equality Commission for NI, ‘Working Paper: Scope of Article 2(1) of the Ireland/Northern Ireland Protocol to the UK-EU Withdrawal Agreement 2020’ (NIHRC and ECNI, 2022).

¹⁷ *Dillon & Ors v SSNI* [2024] NICA 59 at para 112; *Re SPUC Pro-Life Limited Application* [2023] NICA 35 at para 72.

- 2.1 **Question 3:** To what extent do the Windsor Framework's engagement structures enable the relevant stakeholders in NI to engage with the EU legislation at an appropriate stage of the legislative process?
- 2.2 Following the political agreement made by the UK Government and EU Commission in 2023 on a new way forward on the Windsor Framework, several engagement structures were enhanced to strengthen Northern Ireland's voice.¹⁸ These include additional engagement mechanisms under the Specialised Committee on the implementation of the Windsor Framework (Specialised Committee) and the Joint Consultative Working Group, which were designed to facilitate information exchange and ensure local input on matters relating to the Windsor Framework providing NI stakeholders with meaningful channels to engage with EU legislation.
- 2.3 In addition, UK Parliamentary Scrutiny, particularly through select committees such as the NI Scrutiny Committee, NI Affairs Committee and the House of Lords European Affairs Committee, plays a key role in enabling stakeholders to raise concerns, provide evidence and hold the UK Government accountable for its engagement with EU legislative developments. This provides an additional layer of transparency and supports stakeholder involvement at key stages of the EU legislative process, as discussed below.

Specialised Committee on the implementation of the Windsor Framework

- 2.4 The Specialised Committee functions as the key forum for the technical implementation and governance of the Windsor Framework.¹⁹ This Committee facilitates the implementation and application of the Windsor Framework and can make recommendations to the Joint Committee on its functioning.²⁰ The Joint Committee takes decisions on implementation of the Withdrawal Agreement, including amendments to the annexes of EU legislation relevant to NI.²¹
- 2.5 The Specialised Committee is a critical point for stakeholder input, particularly in relation to the application and impact of EU legislation in NI, to highlight any

¹⁸ UK Government and EU Commission, '[Windsor Political Declaration](#)' by the European Commission and the Government of the United Kingdom', 27 February 2023. The UK Government also produced a Command paper setting out the UK Government's understanding of what has been agreed. UK Government, 'The Windsor Framework: a new way forward - CP806' (UK Gov, 2023).

¹⁹ Article 165, Withdrawal Agreement.

²⁰ Article 14, Windsor Framework.

²¹ See Article 164, UK-EU Withdrawal Agreement; Article 13(4), Windsor Framework.

issues as they arise and ensure the voice of NI stakeholders is heard. The Specialised Committee and its effectiveness is further discussed in section 5 below. The Commissions and the Joint Committee of the Northern Ireland Human Rights Commission and the Irish Human Rights and Equality Commission can raise any matter of relevance to Windsor Framework Article 2 for consideration by the Specialised Committee.²²

- 2.6 Since 2024, the Co-Chairs of the Specialised Committee meet regularly, on an informal basis, with civil society representatives including human rights and equality stakeholders. See section 5 for further discussion. The Co-Chairs of the Specialised Committee have highlighted the importance of continued joint engagement with NI stakeholders.²³
- 2.7 **The Commissions recommend that the UK Government and EU officials ensure ongoing timely and structured engagement with NI civil society including equality and human rights stakeholders, including on matters relating to Windsor Framework Article 2. This engagement should include with those working on rights and equality on a cross-border basis.**

Joint Consultative Working Group

- 2.8 The Joint Consultative Working Group is a UK-EU body set up under the Withdrawal Agreement to facilitate the exchange of information on new EU laws relevant to the Windsor Framework and enhanced engagement with NI stakeholders.²⁴ The Joint Consultative Working Group functions as a consultation mechanism for EU legislation, allowing the EU to inform the UK about planned EU legislative changes falling within the scope of the Windsor Framework and enable consultation on those proposals.²⁵ There is an obligation for the EU Commission under the Windsor Framework to inform the Joint Consultative Working Group in a timely manner of proposed EU measures within the scope of the Windsor Framework that amend or replace EU law in Annex 1, as well as other Annexes to the Windsor Framework.²⁶ This early engagement allows NI stakeholders a chance to scrutinise and react to EU

²² Article 14(c), Windsor Framework; Section 78A(9) in respect of the Northern Ireland Human Rights Commission and Section 78B(9) in respect of the Equality Commission for Northern Ireland.

²³ UK Government and EU Commission, 'Press Release: Specialised Committee on the Implementation of the Windsor Framework - Joint Statement', 6 March 2025.

²⁴ Article 15, Windsor Framework.

²⁵ UK Government and EU Commission, 'Windsor Political Declaration by the European Commission and UK' (HM Government, 2023), at 3; EU Commission, 'Commission statement on Enhanced engagement with NI stakeholders'.

²⁶ Article 15(3), Windsor Framework

proposals during the EU legislative process and engage at an early stage, rather than after laws have been passed. It is worth noting that the process is not always effectively applied in practice. For example, the EU Commission did not formally notify the Joint Consultative Working Group regarding the EU Pay Transparency Directive.²⁷ It is the Commissions' considered view that the EU Pay Transparency Directive, for the purposes of Article 13(2) of the Windsor Framework, amends or replaces the EU Gender Equality (Employment) Directive,²⁸ which is listed in Annex 1.²⁹

2.9 The composition of the Joint Consultative Working Group is limited to the UK Government and EU representatives, therefore there is no direct NI stakeholder presence. The Commissions have previously welcomed commitments to improve the Joint Consultative Working Group's transparency and inclusivity through structured sub-groups of experts to discuss proposed EU measures, enabling relevant stakeholders in NI to engage with EU legislation. Whereas the Commissions previously recommended the establishment of a structured sub-group on human rights and equality,³⁰ this was not adopted and therefore NI stakeholders rely on the UK government to communicate and consult on the information shared within the Joint Consultative Working Group³¹ as well as engagement with the Co-Chairs of the Specialised Committee as referenced above.

2.10 **The Commissions recommend that the UK Government and EU Commission continue to keep them informed of any future EU equality law developments relevant to Annex 1 equality directives, including via the Joint Consultative Working Group, and provide the opportunity to highlight in advance any implications of those changes for equality law in NI.**

Transparency of Windsor Framework Article 2 consideration in policymaking

²⁷ Directive 2023/970/EU, 'EU Parliament and Council Directive to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms', 10 May 2023.

²⁸ Directive 2006/54/EC 'EU Parliament and Council Directive on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)', 5 July 2006.

²⁹ Equality Commission for NI and NI Human Rights Commission, 'ECNI and NIHRC Briefing Paper: The EU Pay Transparency Directive: The UK Government's dynamic alignment obligations relating to Windsor Framework Article 2' (ECNI and NIHRC, 2024).

³⁰ Equality Commission for NI and NI Human Rights Commission, 'Submission of the NIHRC and ECNI to the House of Lords Sub-Committee on the Protocol's call for evidence for its inquiry on the Windsor Framework' (ECNI and NIHRC, 2023). The recommendation was endorsed in House of Lords European Affairs Committee, '7th Report of Session 2022-23 – Report from the Sub-Committee on the Protocol on Ireland/Northern Ireland: The Windsor Framework' (HOL, 2023), at para 298.

³¹ UK Government, 'Government response to the Northern Ireland Protocol Sub-Committee Report on the Windsor Framework' (UK Gov, 2023).

- 1.9 In general, the Commissions are concerned there has been very limited or no detail, in Explanatory Memoranda / Human Rights Memoranda and other associated material provided by government on proposed legislation in terms of its consideration of Windsor Framework Article 2 compliance. These materials provide helpful context for civil society stakeholders to understand what consideration has been given to Windsor Framework Article 2 and to facilitate further engagement in the development of legislation and policy.
- 1.10 **The Commissions recommend that the UK Government and NI Departments ensure that Explanatory Memoranda/notes and Human Rights Memoranda/impact assessments on Bills and draft statutory instruments that may engage Windsor Framework Article 2 set out detailed consideration of compliance.**
- 1.11 Updated guidance from the Cabinet Office on preparing explanatory memoranda for statutory instruments states that, where legislation may have interactions with Windsor Framework Article 2, contact should be made with the Windsor Framework Taskforce in the Cabinet Office.³²
- 1.12 In February 2025, the Cabinet Office published an updated Guide to Making Legislation,³³ which references the importance of Windsor Framework Article 2 compliance. Officials with questions about how best to consider Article 2 when developing policy and legislation, are referred to the Rights Team in the NI Office. The Guidance outlines that the ‘Legal Background’ section of the notes accompanying new legislation should, where relevant, set out any obligations relating to Windsor Framework Article 2.³⁴ However, the guidance provides no further information as to those obligations or how they are to be considered, with officials again referred to the Rights Team in the NI Office.
- 1.13 The Committee may wish to consider whether further action would be required to ensure that officials are adequately informed to identify instances where legislation may engage Windsor Framework Article 2.

³² Cabinet Office, ‘Guide to Preparing Explanatory Memoranda (EMs) to Statutory Instruments’ (CO, 2024), at para 6.1.

³³ Cabinet Office, ‘Guide to Making Legislation 2025’ (CO, 2025).

³⁴ Cabinet Office, ‘Guide to Making Legislation 2025’ (CO, 2025), at para 10.53.

- 1.14 The Commissions continue to be concerned that that there is limited evidence that early consideration of Windsor Framework Article 2 has been systematically embedded in policy and legislative development and processes.
- 1.15 **The Commissions recommend that the Committee seeks clarification from the Secretary of State for NI and from the Executive Office on what further steps will be taken to embed detailed consideration of Windsor Framework Article 2 compliance into processes and procedures across Whitehall and the NI Civil Service, including the timeline for doing so.**
- 1.16 **The Commissions recommend that the UK Government and NI departments roll out effective and comprehensive training on Windsor Framework Article 2 to all relevant officials, and act promptly to ensure guidance on policy and legislative development include detailed steps for consideration of Article 2.**

Parliamentary Scrutiny

- 1.17 In addition to formal UK-EU structures, UK parliamentary scrutiny offers a vital domestic channel for stakeholder engagement including with the NI Scrutiny Committee, the NI Affairs Committee, and the House of Lords EU Affairs Committee.
- 1.18 In 2022, UK Government confirmed that it would continue to submit Explanatory Memoranda on EU proposals which amend or replace existing measures that fall within the Windsor Framework for consideration by the House of Commons European Scrutiny Committee. This commitment included the Annex 1 equality directives as well as other EU legislation relevant to the provisions of Article 2.³⁵ The European Scrutiny Committee conducted in-depth scrutiny of issues relating to the UK's withdrawal from the EU, including matters relating to Windsor Framework Article 2. The Committee has been dissolved, and relevant EU laws and proposals will now fall under the remit of the relevant departmental or other committees.³⁶ There is a risk that this lack of centralised consideration of relevant EU laws will make it harder for civil

³⁵ UK Government, 'Government response to the Sub-Committee on the Protocol on Ireland/Northern Ireland's report Scrutiny of EU legislative proposals within the scope of the Protocol on Ireland/Northern Ireland' (UK Gov, 2022), at para 15; House of Lords European Affairs Committee, '5th Report of Session 2021-22 - Report from the Sub-Committee on the Protocol on Ireland/Northern Ireland: Scrutiny of EU legislative proposals within the scope of the Protocol on Ireland/Northern Ireland' (HOL, 2022), at paras 54-60.

³⁶ House of Commons, 'European Scrutiny Committee discontinued' 1 August 2024. Available at: <https://committees.parliament.uk/committee/69/european-scrutiny-committee/news/202417/european-scrutiny-committee-discontinued/>

society stakeholders to engage with the appropriate departmental committee and to track new EU measures of relevance to NI.

- 1.19 **The Commissions recommend that the Committee considers if there are sufficient mechanisms in place to ensure effective parliamentary scrutiny in terms of Windsor Framework Article 2 compliance by the UK Government, particularly in the absence of the European Scrutiny Committee.**

4.0 Effectiveness of Oversight Mechanisms: The Stormont Brake and Applicability Motion Procedure

- 1.20 **Question 7:** How would you assess the effectiveness of mechanisms such as the Stormont Brake and the applicability motion procedure which are designed to allow the NI Assembly to have oversight of EU law which applies in NI under the Windsor Framework?
- 1.21 The Commissions emphasise the importance of democratic oversight, as well as the need for equality and human rights to be considered at every stage of operation of the ‘Stormont Brake’ and the applicability motion procedure under Article 13(3a) and 13(4). The effectiveness of these mechanisms in practice depends on how well they balance oversight with the protection of rights.

The Stormont Brake: Potential and Challenges

- 1.22 The ‘Stormont Brake’ offers a potential mechanism for halting the application in NI of amended or replaced EU provisions in Annex 2 of the Windsor Framework.³⁷
- 1.23 While both Commissions welcomed the exclusion of Annex 1 equality directives from the scope of the Stormont Brake, it may still have implications

³⁷ Decision No 1/2023 of the Joint Committee established by the agreement on the withdrawal of the United Kingdom Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community of 24 March 2023, laying down arrangements relating to the Windsor Framework, given effect in UK law by The Windsor Framework (Democratic Scrutiny) Regulations 2024 (SI 2024/118). In order to activate the ‘Stormont brake’, MLAs must be acting in good faith, meet the minimum threshold of the petition of concern process, have engaged in a range of consultation processes, and demonstrate that the EU rule has a significant and lasting impact specific to the everyday lives of communities in NI in a way that is liable to persist. Where the Secretary of State accepts the conditions for the ‘Stormont brake’ are met, and the UK notifies the UK-EU Joint Committee, Article 13(3a) of the Windsor Framework sets out the procedures for next steps, including the non-application of the relevant new EU measure.

for human rights and equality in NI. In particular, the Commissions have identified a number of EU measures listed in Windsor Framework Annex 2, which are relevant to the Windsor Framework Article 2 ‘non-diminution’ commitment.³⁸ Prior to the introduction of the Stormont Brake, changes to such measures would automatically have applied in NI (subject to the democratic consent mechanism) with potential equality or human rights benefits. The Stormont Brake may result in such changes not being adopted.³⁹

- 1.24 The Commissions are also concerned that the new procedural requirements for applicability motions in Article 13(4) of the Windsor Framework could make it more difficult to incorporate future EU equality and human rights measures into Annex 1.⁴⁰ This could delay or obstruct the application of new or updated EU laws that may enhance the rights of individuals in NI and result in delays in adopting critical EU human rights laws, potentially leaving NI behind in terms of rights protections.
- 1.25 It is crucial that the Stormont Brake is not used in a way that undermines rights protections. This means inquiries by the Windsor Framework Democratic Scrutiny Committee should evaluate whether a proposed EU law strengthens or diminishes rights in NI before deciding to activate the brake.⁴¹ The Committee should seek views on any equality and human rights implications from relevant stakeholders in NI.
- 1.26 **The Commissions recommend that the Secretary of State for NI, the NI Assembly and the Windsor Framework Democratic Scrutiny Committee integrate equality and human rights considerations into the revised process under Article 13(4) of the Windsor Framework, as well as at all key stages of the ‘Stormont Brake’ mechanism.**
- 1.27 **The Commissions recommend that the Windsor Framework Democratic Scrutiny Committee undertakes meaningful and timely engagement with the**

³⁸ Equality Commission for NI and NI Human Rights Commission, ‘Submission of the NIHRC and ECNI to the House of Lords Sub-Committee on the Protocol’s call for evidence for its inquiry on the Windsor Framework’ (ECNI and NIHRC, 2023), at para 2.28.

³⁹ Equality Commission for NI and NI Human Rights Commission, ‘Submission of the NIHRC and ECNI to the House of Lords Sub-Committee on the Protocol’s call for evidence for its inquiry on the Windsor Framework’ (ECNI and NIHRC, 2023), at paras 2.27-2.52. NI Human Rights Commission and Equality Commission for NI, ‘Working Paper: Scope of Article 2(1) of the Ireland/Northern Ireland Protocol to the UK-EU Withdrawal Agreement 2020’ (NIHRC and ECNI, 2022).

⁴⁰ Equality Commission for NI and NI Human Rights Commission, ‘Submission of the NIHRC and ECNI to the House of Lords Sub-Committee on the Protocol’s call for evidence for its inquiry on the Windsor Framework’ (ECNI and NIHRC, 2023).

⁴¹ Equality Commission for NI and NI Human Rights Commission, ‘Submission of the ECNI and NIHRC to the NI Affairs Committee Inquiry into the Operation of the Windsor Framework in Northern Ireland’ (ECNI and NIHRC, 2025)

Commissions and with equality and human rights groups in NI, in relation to a proposed EU measure, or a replacement EU Act, to seek their views on the implications for the promotion and protection of equality and human rights in NI.

5.0 Opportunities and Effectiveness of Stakeholder Engagement under the Windsor Framework

- 5.1 **Question 11:** What opportunities are available for NI business and civil society stakeholders to engage with the UK and/or the EU under the Windsor Framework? & **Question 12:** How would you assess the effectiveness of the existing structures for engagement with business and civil society stakeholders? Could they be improved in future? If so, how?
- 5.2 As noted above, the UK-EU political agreement on a new way forward on the Windsor Framework committed to establishing enhanced mechanisms for UK-EU cooperation, to regularly listen to and engage with people and groups in NI and to establish sub-groups under the Joint Consultative Working Group to ensure transparency, inclusion and local input in decisions that affect NI.⁴²
- 5.3 The Commissions acknowledge that the changes implemented following the UK-EU political agreement mark a step forward in stakeholder engagement. The inclusion of civic voices in the Joint Consultative Working Group sub-groups and Specialised Committee is a positive development, creating new avenues for NI civil society to raise concerns on human rights and equality. However, several limitations need to be addressed to ensure meaningful and consistent participation.

Specialised Committee on Implementation of the Windsor Framework

- 5.4 The Specialised Committee exists to oversee the Windsor Framework's operation and considers any matter of relevance brought to its attention by NI institutions. Both Commissions are empowered to raise relevant human rights and equality issues with the Specialised Committee.⁴³

⁴² UK Government and EU Commission, 'Windsor Political Declaration by the European Commission and UK' (HM Government, 2023), at 3; EU Commission, 'Commission statement on Enhanced engagement with NI stakeholders', 27 February 2023.

⁴³ Article 14(c), Windsor Framework; Sections 78A(9) and 78B(9), Northern Ireland Act 1998.

- 5.5 As noted above, the Commissions welcome recent informal engagement by the Specialised Committee with human rights and equality stakeholders. However, concerns have been raised with the Commission about how this engagement is structured. As it is informal engagement, there are no formal action points arising out of discussions or in response to concerns raised by civil society stakeholders. While the informal nature of this engagement allows for the Specialised Committee to hear directly from affected stakeholders, it can create a challenge for civil society stakeholders to sustain the valuable engagement of their membership. Further concerns have been raised that the structure of the engagement may not be adequately accessible to accommodate a range of equality and human rights stakeholders. A more formal and consistent approach would help to strengthen commitments made to inclusion of NI stakeholder voices.
- 5.6 The Commissions continue to urge that any engagement by the Specialised Committee with the Commissions and NI equality and human rights stakeholders specifically include consideration of Windsor Framework Article 2 and equality and human rights in the context of cross-border issues between Ireland and NI.
- 5.7 The Commissions recommend that the secretariat of the Specialised Committee establishes a formal communication channel with the Commissions to ensure early engagement on anticipated changes or additions to legislation on matters relating to equality and human rights in NI, including Windsor Framework Article 2.**

Joint Consultative Working Group

- 5.8 As noted above, the Joint Consultative Working Group was established under the Windsor Framework to facilitate an exchange of information regarding the implementation of the Windsor Framework in NI. The Commissions have met separately with the Co-Chairs of the Joint Consultative Working Group. Sub-groups were introduced to support the work of Joint Consultative Working Group in carrying out its functions as an effective forum for the exchange of information and mutual consultation.⁴⁴ In practice, engagement with NI's civil

⁴⁴ UK Government and EU Commission, 'Windsor Political Declaration by the European Commission and UK' (HM Government, 2023); Rule 3 of the Consolidated Rules of Procedure of the Joint Consultative Working Group.

society related to equality and human rights through the Joint Consultative Working Group has been limited.

- 5.9 The Commissions have previously highlighted that establishing a structured sub-group within the Joint Consultative Working Group focused on issues related to Windsor Framework Article 2 and equality and human rights in NI would be beneficial.⁴⁵ This would facilitate consideration at an early stage of the implications of proposed EU measures on the promotion and protection of equality and human rights in NI, including in the context of cross-border issues between Ireland and NI.
- 5.10 In light of increased engagement between the Specialised Committee and NI equality and human rights stakeholders, the Commissions continue to keep engagement with the Joint Consultative Working Group under review.

6.0 EU Commission Work Programme

- 1.28 **Question 14:** When the Windsor Framework was announced, the European Commission committed to an annual presentation on upcoming policy initiatives and legislative proposals for NI stakeholders, including engagement on the Commission Work Programme. Is this engagement taking place and, if so, how effective has it been for businesses and civil society?
- 1.29 In March 2025, the EU Commission hosted an online seminar for NI stakeholders on the EU Commission Work Programme for 2025 and consultation opportunities. Attendance by NI stakeholders was facilitated by the Office of the NI Executive in Brussels. The seminar covered an overview of initiatives considered to be relevant to NI and to highlight the opportunities for stakeholder engagement in the development of specific EU policies and legislation. Participants were also offered the opportunity to ask questions and get further information.
- 1.30 The Commissions participated in this annual presentation by the EU Commission, along with a wide range of NI stakeholders. The Commissions welcomed these sessions and the opportunity they present for stakeholders to

⁴⁵ Equality Commission for NI and NI Human Rights Commission, 'Submission of the NIHRC and ECNI to the House of Lords Sub-Committee on the Protocol's call for evidence for its inquiry on the Windsor Framework' (ECNI and NIHRC, 2023).

understand the legislative developments that may impact NI under Windsor Framework Article 2.

- 1.31 To facilitate early consideration of equality and human rights impacts in NI, the Commissions have previously recommended that the EU Commission's impact assessment, as regards NI, of draft EU proposals include a specific assessment of the impact on the promotion and protection of equality and human rights.⁴⁶
- 1.32 **The Committee may wish to seek clarity from the UK Government on what consideration is given to equality and human rights in NI by the EU Commission in impact assessments of draft EU proposals.**

⁴⁶ NI Human Rights Commission and Equality Commission for NI, 'Annual Report on the Implementation of Article 2 of the Windsor Framework 2023-2024' (NIHRC and ECNI, 2024), at para 2.30.

Contact Us

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