

# **A REPORT ON DECISIONS TAKEN DURING FEBRUARY 2023 BY NORTHERN IRELAND DEPARTMENTS IN ACCORDANCE WITH THE GUIDANCE ISSUED BY THE SECRETARY OF STATE FOR NORTHERN IRELAND UNDER THE PROVISIONS OF THE NORTHERN IRELAND (EXECUTIVE FORMATION ETC) ACT 2022**

On 19 December 2022 the Secretary of State for Northern Ireland, in accordance with section 3(4) of the Northern Ireland (Executive Formation etc) Act 2022, published guidance about the exercise of departmental functions by senior officers of Northern Ireland departments during the absence of Ministers. This guidance requires Northern Ireland departments to prepare a monthly summary report of decisions taken by senior officials using the guidance and to share this with the Secretary of State, who will in turn make it available to Parliament and to MLAs.

## **Decisions taken by Northern Ireland Departments: February 2023**

This summary report has been prepared by the Executive Office and provides information on the decisions taken by Northern Ireland departments during February 2023.

<b>Department</b>	<b>Decision</b>
<b>Department of Agriculture, Environment and Rural Affairs</b>	A decision was taken to participate in a UK-wide consultation on Managing Radioactive Substances and Nuclear Decommissioning.
	A decision on the construction of permanent infrastructure at Northern Ireland Points of Entry (PoE) was deferred.
	A decision was taken regarding the approach to legal action relating to the UK-wide Joint Fisheries Statement.
	A decision was taken to give consent for the making of The Sea Fisheries (Amendment) Regulations 2023.
	A decision was taken to carry out targeted Stakeholder Engagement on proposals for new spirit drinks regulations.

**Department of  
Agriculture,  
Environment and  
Rural Affairs  
[continued]**

A decision was taken not to seek leave to appeal the judgment of the court in the *Rooney and others* case.

A decision was taken to initiate the recruitment process to deliver sufficient numbers of suitably qualified staff to carry out required checks at Northern Ireland's Points of Entry (PoE).

A decision was taken to defer the finalisation and publication of the cross departmental Northern Ireland Food Strategy Framework until Ministers return.

A decision was taken to provide approval on behalf of DAERA for the British Wool Review Report 2022.

**Department for  
Communities**

A decision was taken to delay compliance action for applicants to the EU Settlement Scheme who are impacted by a Home Office correction exercise. This will maintain parity with DWP's timeframe and ensure maintenance of a single system of pensions across GB and NI in line with Section 87 of the Northern Ireland Act 1998.

A decision was taken to enable Fermanagh and Omagh District Council to dispose of land at Ballybrack Road Loughmacrory, by way of a lease, to reduce Council expenditure associated with maintenance and allow for the provision of services to the local community.

A decision was taken to confirm a modified below inflationary Northern Ireland Housing Executive rent increase of 7%. This decision manages expenditure within limits outlined in the Budget Acts and the Secretary of State's statement of 24 November 2022 and will prevent significant detriment to public services in terms of the provision, maintenance, and improvement of social housing.

A decision was taken to publish the Summary Report of the 2021 Review of the Caravans (NI) Act 2011.

A decision was taken to undertake a joint DoJ/DfC public consultation to seek the views of stakeholders and the general public on Anti-Social Behaviour (ASB) Legislation.

A decision was taken to provide funding to organisations who receive salary support from DfC's Voluntary and Community Division, and Community Empowerment Division, for a one-off cost of living salary payment. This is

**Department for  
Communities  
[continued]**

in line with the previous Minister's commitments to providing a practical response to the cost-of-living crisis and ensure continued delivery of key services to tackle disadvantage.

A decision was taken to appoint three Councillor Members to the Board of Libraries NI from February 2023 until the date of the local Council elections in 2027. This is to comply with legislative requirements and to ensure proper governance and accountability.

A decision was taken to agree to NI being included in DWP's Child Support (Domestic Violence) Bill to provide protection for domestic abuse victims in relation to accessing child maintenance payments.

A decision was taken to complete an exercise to rectify incorrect awards of Income Support. This will maintain parity with DWP's timeframe and ensure maintenance of a single system of pensions across GB and NI in line with Section 87 of the Northern Ireland Act 1998.

A decision was taken to make DWP consultation papers relating to pensions published on the DWP website available on the Department's website.

A decision was taken to agree to the following regulations being made by HMRC, in compliance with the Contributions and Benefits Act (Northern Ireland) 1992:

- The Social Security (Contributions) (Amendment) Regulations 2023.
- The Social Security (Contributions) (Re-Rating) Consequential Amendment Regulations 2023.

A decision was taken to make the following Statutory Rules to ensure parity is maintained across the United Kingdom in line with section 87 of the Northern Ireland Act 1998:

- The Social Security (2022 Benefits Up-rating) Order (Northern Ireland) 2023 (the Up-rating Order)
- The Social Security Benefits Up-rating Order (Northern Ireland) 2023 (the Up-rating Order).
- The Social Security (2022 Benefits Up-rating) Regulations (Northern Ireland) 2023.
- The Social Security Benefits Up-rating Regulations (Northern Ireland) 2023.
- The Mesothelioma Lump Sum Payments (2022 Conditions and Amounts) (Amendment) Regulations (Northern Ireland) 2023.

**Department for  
Communities  
[continued]**

- The Mesothelioma Lump Sum Payments (Conditions and Amounts) (Amendment) Regulations (Northern Ireland) 2023.
- The Loans for Mortgage Interest (Amendment) Regulations (Northern Ireland) 2023.

A decision was taken to make the following Statutory Rules to protect tenants and landlords, and minimise disputes:

- The Tenancy Information Regulations (Northern Ireland) 2023.
- The Tenancy Deposit Schemes (Amendment) Regulations (Northern Ireland) 2023.

A decision was taken to approve documentation for a public appointment competition for the Board of National Museums NI. This is in line with the previous Minister's commitment to comply with statutory requirements and to ensure proper governance and accountability.

**Department for  
Economy**

A decision was taken to extend the appointment of a member of the Single Electricity Market (SEM) Committee in line with his Chairmanship of the Board of the Utility Regulator, in order to align the two appointments. Given the ongoing cost of living crisis, with high profile energy price increases which are predicted to endure through 2023- 24, it was considered prudent to retain the expertise and experience of the member, while taking steps in parallel to ensure the best possible replacement is identified and in place by 1 July 2024. There is a legislative obligation on the Department to appoint SEM Committee members within the Electricity (Single Wholesale Market) (NI) Order 2007 (SEM Order).

A decision was taken to grant an extension to the appointment of a member the SEM Committee. The member is Commissioner for the Regulation of Utilities (CRU) as well as being a member of the SEM Committee, having been appointed on 1 March 2013. This appointment was renewed for a further five-year period in 2018 and expires on 28 February 2023. However, the Department of the Environment, Climate and Communications (DECC) has extended this appointment to 31 May 2023 to allow time to appoint a replacement Commissioner. DECC asked if his appointment to the SEM Committee could be extended to align with that reappointment. It was considered prudent to retain the expertise and experience of the member, given the

**Department for  
Economy**

**[continued]**

unprecedented cost of living crisis with high profile energy price increases.

A decision was taken to publish the Energy Strategy Action Plan 2022. The *Energy Strategy – The Path to Net Zero Energy* was published in December 2021 after being agreed by the Executive. The Strategy and its associated Action Plans will make a significant contribution to DfE's 10X vision, delivering substantial economic benefits, attracting investment to Northern Ireland and positioning NI companies to compete for the global investment being made in low and zero carbon energy technologies. DfE undertook to report in Q1 2023 on the progress achieved against each action in the 2022 Action Plan. Publication of the Action Plan report has been approved by the Energy Strategy Programme Board, which is composed of senior officials from across the responsible NICS Departments as well as the Utility Regulator and the Consumer Council.

A decision was taken to publish the Energy Strategy Action Plan 2023. The *Energy Strategy – The Path to Net Zero* contained a commitment to refresh and update the Action Plan annually. Publication of the Action Plan has been approved by the Energy Strategy Programme Board, which is composed of senior officials from across the responsible NICS Departments as well as the Utility Regulator and the Consumer Council. The latest Action Plan will continue to make a significant contribution to DfE's 10X vision, delivering substantial economic benefits, attracting investment to Northern Ireland and positioning NI companies to compete for the global investment being made in low and zero carbon energy technologies. The publication of this Action Plan will not incur in any expenditure of public money.

A decision was taken to give approval to DfC to proceed with amending the Local Government (Performance Indicators and Standards) Order (Northern Ireland) 2015 as a temporary measure to align the statutory targets with the current "Go for It" programme. A public consultation has already been undertaken by DfC about updating the targets and the proposed amendments were approved by the former Minister for the Economy. Without this decision there is a risk that the Department's ability to drive job creation and economic development would be weakened. Failure to update the targets would also unfairly disadvantage the Councils. The revised targets will expire at the end of September 2023.

**Department for  
Economy  
[continued]**

A decision was taken to approve an appointment to the Office of the Internal Market (OIM). Schedule 3, part 2, sub paragraph 3 of the UK Internal Market Act 2020 requires the BEIS Secretary of State to seek the consent of the Devolved Administrations to make appointments to the OIM panel once suitable candidates have been identified. In the case of Northern Ireland this consent request falls to the Department for the Economy. Precedent has been established for the principle of approving appointments to the OIM; DfE Minister Lyons consented to the appointment of the Panel Chair in February 2022. Having access to the OIM is beneficial to DfE, especially at this challenging time for trade and co-operation.

A decision was taken to appoint seven new Governing Body members at Stranmillis University College. The relevant legislation sets out that members are to be appointed by the Department. The process was approved by the former Minister for the Economy and CPANI guidance was followed. The approval of this decision protects and assures the governance structure of the college and the Permanent Secretary's position as Accounting Officer.

A decision in relation to miscarriage leave and pay consultation was deferred. DfE has a statutory deadline of April 2026 to introduce miscarriage leave and pay. The earliest possible date for its introduction was April 2024. Without a functioning Executive and Assembly, the necessary regulations cannot be introduced as draft affirmative approval is required. Deferral at this juncture is not considered likely to impact the statutory timetable, as April 2024 is no longer a realistic implementation date. This decision will be kept under review in line with political developments. The departmental response paper will be drafted as far as possible and left ready for finalisation once Ministerial direction is received.

A decision was taken to approve the annual Employment (Increase of Limits) Order, which is a statutory obligation. The amounts affected by the Order include; provisions for statutory redundancy payments, the compensation awarded by industrial tribunals where an individual has been unlawfully expelled from a union, the basic award of compensation made by an industrial tribunal for unfair dismissal, the limit on guaranteed payments when workers are not provided with work, and the basic award for unfair dismissal in health and safety cases. Former Minister Lyons approved the increased amounts in line with the

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Economy  
[continued]**

Retail Price Index percentage increase of 12.6%. The Department for the Economy will not have any increased expenditure due to this increase of limits.

A decision was taken to formally launch the NI Export Forum. In October 2022 the then Minister agreed in principle to create a NI Export Forum to coordinate and deliver DfE's Trade and Investment for a 10X Economy ambitions. The 10X Vision provides the strategic framework for the Department's activities over the next decade. A more detailed plan and a slight shift in focus, including confirmed membership, are all now in place. No additional budgetary costs.

A decision was taken to appoint an Interim Chair of Invest NI for a period of nine months. The Industrial Development Act NI 2002 requires Invest NI to have a Chair. The Board was without a Chair and work has commenced to appoint a substantive Chair which will likely complete in November 2023. In the meantime, an Interim Chair was required to provide leadership and strategic direction to Invest NI, ensure that Invest NI's policies and actions support the wider strategic policies of the Minister, and that its affairs are conducted with probity. The Interim Chair will also play an important role in taking forward the out workings of the Independent Review of Invest NI and ensuring that Invest NI helps in the delivery of the 10X Economic Vision.

A decision was taken to re-appoint four Invest NI Board Members. The terms and conditions of re-appointment state it may be reviewed and may be confirmed or terminated by an incoming Minister. The Invest NI Board is crucial for the oversight of the financial and governance functions for Invest NI, which includes the control and management of the organisation's expenditure. The Industrial Development Act (Northern Ireland) 2002 details that Invest NI shall consist of a Chairperson and not fewer than 10 board members. Not re-appointing the four experienced Board Members would have resulted in the Invest NI Board being below that minimum number. In addition, essential skills will be lost to the Board, in particular in relation to taking forward the out workings of the Independent Review.

**Department of  
Education**

NIL Return

**Department of  
Finance**

A decision was taken to approve of the use of external consultants to review Covid-related grant schemes administered by all Northern Ireland Departments between March 2020 and December 2022. The cost of the external consultancy input is £99,675. A decision under the Act was necessary because the Department of Finance's internal procedures explicitly require external consultancy costs over £10,000 to be approved by the Minister. Given the cross cutting nature DfE and DfC were consulted on the decision. The review will be complete by 31 May 2023 to feed into the UK Covid-19 Inquiry.

A decision was taken to approve the PSNI Federated and Superintending pay remit for 2022/23. This will allow for DoJ to proceed with implementing the 2022-23 pay award for PSNI Federated and Superintending officers. The DoJ Accounting Officer advised (delegated to Finance Director) that the award is affordable from within his Department's budget as set out by the Secretary of State in his Written Ministerial Statement on 24 November 2022

A decision was taken to approve the extension of the provisions in the Coronavirus Act 2020 in relation to death registration for a further 6 months until 24 September 2023. This enabled GRO and registrars to continue to provide an efficient and effective public service for all stakeholders. The decision is in line with the Secretary of State's Guidance.

A decision was taken to approve the making of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions (Northern Ireland) 2023.

A decision was taken to support a TEO-led cross-departmental initiative to approach UKG to request they legislate on behalf of NI to preserve the operation of devolved retained EU law pending the return of the NI Executive and Assembly. The department considers it to be in the public interest that decisions in respect of each piece of legislation at risk of sun-setting under the provisions of the Retained EU Law (Revocation and Reform) Bill should be made with appropriate democratic oversight.

**Department of  
Health**

A decision was made to launch a single Public Appointment Competition for the upcoming Health and Social Care Trusts Non-Executive Directors (NED).



**Department of  
Health [continued]**

A decision was taken to make a formal offer to TUS on Agenda for Change (AfC) mileage rates.

A decision was taken to approve and publish an updated version of NI Evidence Based Commissioning Position - Effective Use of Resources (EUR).

A decision was taken not to amend the NI Infected Blood Payment Scheme to prevent payments being made to individuals serving a prison sentence.

A decision was taken to extend the appointment of the Chair of the Patient and Client Council for three months until the competition for a substantive replacement concludes.

A decision was taken to address funding issues affecting community pharmacy within the budget envelope available.

A decision was taken to extend the appointment of 1 Chair and 5 Non Executive Members across five of the Department of Health's ALBs.

A decision was taken to amend the HSC Pension Scheme Regulations. The purpose of the Regulations is to update member contribution tiers in line with the Agenda for Change (AfC) pay award and introduce technical updates to contribution provisions.

A decision was taken to agree with the recommendation from the Independent Advisory Committee on the Safety of Blood, Tissues and Organs (SaBTO) to introduce UK-wide testing of Kaposi Sarcoma associated Herpes Virus (KSHV) in deceased organ donations.

A decision was taken to pause the UK-wide Covid-19 Alert Level system in line with the rest of the UK.

A decision was taken to maintain the level of GP training places at the same level as in 2022/23.

A decision was taken to defer a decision not to change the current Policy on Infected Blood Payments to introduce payments for children. The decision was deferred pending the Chair's interim second report which may address the issues raised before.

**Department of  
Health [continued]**

A decision was taken to defer the Public Appointment of an Autism Reviewer until the end of March 2023 pending clarity about the 23/24 budget.

**Department for  
Infrastructure**

A decision was taken to adopt a fixed bridge as the Department's preferred option for the proposed Newry Southern Relief Road bridge over Newry Ship Canal and to proceed with the preparation of the Environmental Impact Assessment Report and associated consultation based on a fixed bridge.

A decision was taken to consult on the DfI draft Equality Action Plan commencing in March 2023.

A decision was taken to increase the on-street Controlled Parking Zone (CPZ) tariffs in Belfast by 40p per hour and Lisburn and Newry by 20p per hour from 01 April 2023.

A decision was taken to make a pre-commitment of up to £4m in the 2024/25 DfI budget for the procurement of specialist road maintenance vehicles.

A decision was taken to approve the appointment of external consultants to assure Translink that the valuations provided through the 2023 Rates Revaluation are a fair and accurate reflection of the Translink estate.

A decision was taken to reallocate internal resource budgets to maintain delivery of the Department's essential public services at current levels.

**Department of  
Justice**

A decision was taken to appoint three members and re-appoint five members to the Independent Monitoring Board (IMB). The IMB is an independent statutory body whose role is to monitor the treatment of prisoners and the conditions of their imprisonment in Northern Ireland's prison establishments. The IMB is made up of unpaid volunteers who fulfil their duties by carrying out regular visits to these establishments.

A decision was taken to publish a report of an independent Panel that undertook a review of the 2007 Protocol for Community-Based Restorative Justice Schemes that includes a Revised Protocol. An earlier draft of the document had been agreed by the former Minister of Justice, Naomi Long MLA.

A decision was taken to increase the interest rates paid to clients of the Court Funds Office (CFO) in Northern Ireland

**Department of  
Justice [continued]**

for funds held in court following an increase to the United Kingdom base rate announced on 2 February 2023.

A decision was taken to publish a summary of responses to a consultation on coronial investigations into deaths abroad. The consultation sought the public's view as to whether or not coroners here should have a statutory power to carry out a formal investigation, known as an inquest, into the death abroad of a Northern Ireland resident whose body has been repatriated.

A decision was taken to agree to the publication of a report prepared by Criminal Justice Inspection Northern Ireland on Leadership Development and Wellbeing within the criminal justice system in Northern Ireland produced by Criminal Justice Inspection Northern Ireland.

A decision was taken to approve a 3% increase to daily fees for 2022/23 paid to fee paid tribunal office holders, Lay Magistrates and salaried members of the Lands Tribunal.

A decision was taken to launch a consultation on the types of evidence of domestic abuse that should trigger an automatic prohibition on cross-examination in person in family proceedings.

A decision was made to make the Insolvency (Amendment) Rules (Northern Ireland) 2023 which prescribe permanent procedural rules for a company moratorium procedure that allows companies in financial distress a 'breathing space' in which to explore rescue and restructuring options, free from creditor action with a view to avoiding insolvency. Procedural rules are required for the moratorium to operate effectively and to provide certainty to users such as directors, creditors and insolvency practitioners.

A decision was taken to apply an increase to the salary of the Police Ombudsman for 2022/23 in line with recommendations of the Senior Salaries Review Board.

A decision was taken to invite the Police Remuneration Review Body to commence its annual review in respect of pay and conditions of officers of the PSNI for 2023/24, in conjunction with that for police officers in England and Wales.

A decision was taken to make the following Statutory Rules that make provision for individuals who are seeking to act

**Department of  
Justice [continued]**

as an adult placement carer to obtain an AccessNI Enhanced Check:

- The Police Act 1997 (Criminal Records) (Amendment) Regulations (Northern Ireland) 2023
- The Rehabilitation of Offenders (Exceptions) (Amendment) Order (Northern Ireland) 2023.

**The Executive  
Office**

A decision was taken to extend the appointments of the Board of the Maze/Long Kesh Development Corporation by seven weeks to allow for completion of the process to appoint new Board Members.

A decision was taken to extend the appointments of two Non-Executive Directors by six months and two Non-Executive Directors by twelve months of the Strategic Investment Board (SIB). This will allow time to recruit new NEDs and facilitate handover. The extensions will ensure continued good governance and maintain the delivery of public services as sustainably, effectively and efficiently as possible. The decision is consistent with the direction of previous Ministers to maintain the Board. While there is a public interest in refreshing the Board, extension is to be a short-term measure pending new appointments. A decision has been taken to reappoint the Executive Director for a further term of 3 years. This will ensure continued good governance and maintain the delivery of public services as sustainably, effectively and efficiently as possible.

A decision was taken to settle a claim against TEO arising from an incident on the Shackleton site on 2014.

A decision was taken to recommend that the Head of the Civil Service write to the Secretary of State for Business and Trade to request an extension of the sunset period beyond December 2023 for NI implementation of the Retained EU Law (REUL) Bill. This decision is considered to be in the public interest, as failure to act would lead to:

- greater budgetary pressures for the next financial year/significant costs to the public purse;
- significant detriment to a public service or public safety;
- failure to address a civil contingency or manage a significant risk; and
- impact on the ability of Departments to maintain the delivery of public services as sustainably, effectively and efficiently as possible.

**The Executive  
Office**

A decision was taken to provide a factual update in respect of a Bill of Rights for Northern Ireland, as part of the UK's examination under the UN Convention Against Torture (UNCAT).