

# Independent Review of the Windsor Framework

## Terms of Reference

### 1. BACKGROUND AND PURPOSE

- 1.1. The Independent Review (the ‘Review’) is established under the terms of Schedule 6A to the Northern Ireland Act 1998. It also aligns with the commitments made in the *Declaration of 17 October 2019 concerning the operation of the ‘Democratic consent in Northern Ireland’ provision of the Protocol on Ireland/Northern Ireland* (the Unilateral Declaration) as well as the *Safeguarding the Union* Command Paper published by the UK Government in January 2024.
- 1.2. The Review follows a consent motion passing in the Assembly (under the terms of Schedule 6A) by a majority of the Members of the Legislative Assembly voting but not with cross-community support<sup>1</sup>.
- 1.3. The Review’s purpose is to provide the Government with a report of its conclusions on the functioning of the Windsor Framework arrangements and its implications on social, economic and political life in Northern Ireland.
- 1.4. The Review’s sponsoring department is the Cabinet Office.

### 2. MEMBERSHIP

- 2.1. A single person will be appointed by the Minister for the Cabinet Office on the advice of the Secretary of State for Northern Ireland to carry out the Review (‘the Reviewer’).

### 3. FUNCTIONS

- 3.1. The Review will be carried out in line with requirements set out in the Part 6 of Schedule 6A and the Unilateral Declaration, and will examine issues required to be addressed for the Windsor Framework arrangements to command cross-community support.
- 3.2. Accordingly, the Review may include the consideration of any effect of the Windsor Framework in the Withdrawal Agreement on:
  - 3.2.1. The constitutional status of Northern Ireland, and;
  - 3.2.2. The operation of the single market in goods and services between Northern Ireland and the rest of the United Kingdom.

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<sup>1</sup> Cross-community support is defined as a majority of the MLAs present and voting, including a majority of the unionist and nationalist designations present and voting OR 60% of MLAs present and voting, including at least 40% of each of the nationalist and unionist designations present and voting.

- 3.3. If the Independent Monitoring Panel has reported, the Review may also consider whether and how the UK Internal Market Guarantee (As set out in Para 88 of the *Safeguarding the Union* Command Paper) has been met and to provide recommendations on the steps the Government should take to ensure the guarantee is met permanently.
- 3.4. Where the Review identifies issues or challenges attributable to the current arrangements, it shall also provide practical recommendations to the Government on how these issues may be addressed. Recommendations should reflect the context that the Windsor Framework is an international commitment to which the Government has committed to implement in good faith.
- 3.5. In making recommendations to the Government in its report, the Review must give consideration to and set out how any recommendations:
  - 3.5.1. will command the support of both communities in Northern Ireland;
  - 3.5.2. would be achieved in a practicable and sustainable manner;
  - 3.5.3. may support trade within the United Kingdom internal market;
  - 3.5.4. are consistent with the need to protect North-South cooperation and the guarantee of avoiding a hard border on the island of Ireland; and
  - 3.5.5. account for the wider UK-EU trade relationship, and relevant or prospective developments within it, to the extent it is relevant.

#### **4. CONSULTATION & INFORMATION SHARING**

- 4.1. In the course of the review period, the Reviewer will specifically consult with:
  - 4.1.1. Northern Ireland political parties,
  - 4.1.2. businesses,
  - 4.1.3. civil society groups,
  - 4.1.4. representative organisations (including of the agricultural sector), and
  - 4.1.5. trade unions.
- 4.2. The Review may also engage with the Independent Monitoring Panel established to provide independent oversight of the operational implementation of the Windsor Framework.
- 4.3. The Reviewer must seek substantive discussion and engagement with the UK Government in the course of the review and prior to the publication of the Review's report.

4.4. Where confidential information is provided to the Reviewer, the Reviewer may not disclose that information without the consent of the person from which it originated.

## **5. THE REPORT**

5.1. The Reviewer commissioned to carry out the Review must provide to the Secretary of State a report of its conclusions no later than six months after having been commissioned.

5.2. A draft copy of the Review's report must be made available to the Secretary of State in good time ahead of the finalisation of the report, so that factual or technical comments may be provided for the Reviewer's consideration.

5.3. Following receipt of the Review's final report by the Secretary of State, the UK Government will:

5.3.1. publish the report;

5.3.2. lay a copy of that report before Parliament; and

5.3.3. transmit a copy of that report to the Speaker of the Assembly.

## **6. SECRETARIAT**

6.1. The Review shall be provided with a secretariat function. The Secretariat to the Review shall, in discharging its functions and supporting the drafting of the Review's report, operate with full regard to the independence of the Review.

6.2. To support the good operation of the Review, the Secretariat shall also be available to provide reasonable administrative assistance including the arrangement of travel for the Reviewer and the management of correspondence.