



To: 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 March 2024

Re. EU proposal to replace Regulation (EU) 2017/852 of the European Parliament and of the Council on mercury

Dear Mr McGuigan

Firstly, congratulations on your appointment as Chair to the Democratic Scrutiny Committee. We wish you and the committee well in your future deliberations as you examine and consider new and replacement EU acts on behalf of the NI Assembly.

The committee may be aware of recent developments at EU level to amend the above Regulation. As we understand it, following the European Parliament vote, on 8th February the European Council and European Parliament reached a provisional agreement on the terms of a proposal which will replace the 2017 Mercury Regulation, pending formal adoption by both institutions. This will apply a direct ban on dental amalgam use from 1 January 2025, as well as provide for other restrictions around export, manufacturing and import of amalgam.

As one of the EU acts listed in Annex 2 of the NI Protocol, we understand this means the default position would be that the amended Regulation would apply directly in Northern Ireland. However, we note the important democratic provisions included within the Windsor Framework, not least the functions given to this committee to monitor the progress of a replacement EU act and to hold an Inquiry into that EU act.

It is our firm belief that this replacement EU act satisfies the criteria laid out for initiating a Committee Inquiry, namely:

- i) it significantly differs from the content or scope of the original EU Regulation, and
- ii) it would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist.

We would be grateful for further clarity around indicative timescales that would apply were this committee to move to an Inquiry. Of note, this committee was not yet established to be notified by the UK Government under para 6(1)(a) of the Windsor Framework (Democratic Scrutiny) Regulations 2024 when the above replacement EU act was *proposed* by the

European Commission. Moreover, we anticipate *notification* will also come at the end of this process under 6(1)(b) when a replacement EU act has been published by the European Union. Can and will an Inquiry be initiated ahead of the rather belated *notification*?

If applied to Northern Ireland, the implications of the amended EU Regulation on mercury and associated ban on dental amalgam use would be immense for access to dental services and oral health outcomes here, at a time when this vital service is already hanging by a thread.

Crucially, it would also run counter to the DoH and UK-wide policy position of maintaining a managed phase-*down* approach to dental amalgam, as deemed necessary by all x4 UK Chief Dental Officers, as well as the wider dental profession.

Moving to an arbitrarily imposed date of 1 January 2025 ahead of sufficient progress having been made on such crucial areas as prevention i.e. reducing demand for amalgam/improving population oral health; on dental service reform; and on finding alternative materials and techniques, as stated in the DoH [Northern Ireland Plan to Phase down the use of Dental Amalgam 2019](#), would be deeply damaging to dental services here, to population oral health, and would be ill-advised as running counter to established policy, both in Northern Ireland and at UK-level as signatories to the Minamata Convention on Mercury.

It cannot be overstated that the European Parliament vote to ban dental amalgam use from 1 January 25 sent shockwaves across dentistry right throughout the UK, and not least in Northern Ireland due to our unique post-Brexit arrangements. The risk this poses indirectly to dentistry in the UK, not to mention if it were to be directly applicable here is such that we simply cannot countenance a situation where the impacts could ever be substantively mitigated in such a short space of time to be able to deviate away from the current phase-down approach to a complete phase-out from next January.

Quite simply, while we want to get to the point where dental amalgam seamlessly disappears, essential preparatory steps i.e. the investment in greater oral health improvement and prevention measures, and in reforming and investing in our dental services has not been adequately taken forward. Northern Ireland is nowhere near ready to meet an arbitrary deadline of 1 January 25 for phase-out, under this amended Regulation.

Due to the wider societal impact i.e. public access to Health Service dentistry to be massively reduced, it is imperative that substantive discussions and engagements are had on this issue at the earliest opportunity, at NI Assembly level, with UK Government, DoH, and with those who stand to be impacted directly if this EU replacement act was to come into force.

As such, we wish to inform those discussions by sharing our position paper on dental amalgam, and to respectfully urge that an Inquiry be held into this proposed replacement EU act. That such fundamental changes are being proposed for dentistry to apply in just 9 months-time is deeply alarming; therefore, we would encourage the committee to consider this issue as a matter of priority.

The BDA position paper will introduce members to the trajectory of phase-down that has applied to dental amalgam in Northern Ireland to this point; it sets out why this must be maintained, as well as why the amended Regulation would represent such a profound shift in our policy approach.


Elected BDA committee representatives would be very happy to brief the committee further, particularly around perceived impact from a dental practitioner point of view, and impacts and risks on dental services right across the areas of General, Community and Hospital Dental Services.

Therefore, we formally request an early opportunity to engage directly with the committee on this vitally important issue, to inform the work required to arrive at a position on this replacement EU act that is appropriate and suited to the particular needs and realities of Northern Ireland.

We trust the committee will be diligent in bringing to light the significant impact to everyday life of communities that is liable to persist -namely, additional pressures on already overstretched and crumbling dental services; financial implications; and a worsening of health inequalities and oral health outcomes should this replacement EU act be directly applied.

Our representatives look forward to engaging with the committee on these issues in the near future.

Yours sincerely

A handwritten signature in cursive script that reads "Tristen Kelso".

Mr Tristen Kelso

Director, BDA Northern Ireland

Encs. BDA Position paper on Dental Amalgam