



Northern Ireland
Assembly

Committee for The Executive Office

OFFICIAL REPORT (Hansard)

Brexit: Mr Declan Kearney MLA and Mr
Gordon Lyons MLA, Junior Ministers, The
Executive Office

25 November 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colin McGrath (Chairperson)
Mr Doug Beattie (Deputy Chairperson)
Ms Martina Anderson
Mr Trevor Clarke
Mr George Robinson
Mr Pat Sheehan
Ms Emma Sheerin
Mr Christopher Stalford

Witnesses:

Mr Kearney	junior Minister
Mr Lyons	junior Minister

The Chairperson (Mr McGrath): We can move seamlessly on to the next item on the agenda, which is the oral evidence session on Brexit issues with the junior Ministers.

I welcome junior Ministers Gordon Lyons and Declan Kearney. I will give you the usual, almost arrest, caution and remind you that you are being recorded by Hansard and that anything that you say will be written down and can be used in the future. I will pass over to you, junior Ministers, to give us an update, and we will then open it to questions.

Mr Kearney (Junior Minister, The Executive Office): Thank you, Colin and members, for having us this afternoon. I will begin, and Gordon will talk about the remainder of the report.

As usual, we welcome the opportunity to provide you with an update on EU exit matters. However, at the outset, I offer apologies that the Committee is getting little or no advance notice of EU exit-related meetings. As we explained before, that is largely due to the fact that they tend to be arranged, and increasingly so, at very short notice. I also understand that the Committee received the written update late, and, for that, I again offer my apologies. We raised that issue with officials following our last appearance. We also raised it with them before we came here; as late as Monday, when we had a meeting with them to establish whether you were adequately —.

Mr Stalford: I am not making a protest; I need to make a call. *[Laughter.]*

Mr Kearney: That is OK. We had a meeting to establish whether you had been given sufficient foresight of our [*Inaudible.*] I have asked officials to look into that and to make strenuous efforts to ensure that that does not become a regular occurrence.

There is little doubt that work on EU exit is intensifying. That will continue to be the case over the coming weeks. Our key objective going forward is to ensure that, in legislative and operational terms, we are on a firm foundation not only on 1 January 2021 but in the following months and years. I would like to like to take this opportunity to highlight some key happenings over the last few weeks and to provide you with a high-level view of what we expect to see in coming weeks.

In recent weeks, future relationship negotiations have intensified, with discussions now taking place daily. We understand that, whilst significant progress has been made, key areas of divergence remain across fisheries, the playing field, including state aid and subsidies, and governance issues. It had been indicated by the EU that, for a future relationship agreement to be in place at the end of the transition period, a positive outcome from the negotiations was needed by mid-November to allow the EU to complete its internal processes. It now appears that both sides are willing to continue the process, perhaps into early December. That may complicate the ratification process of any deal that may be secured. In any case, it undoubtedly prolongs the uncertainty and limits the scope for preparation.

In all our engagement on the negotiations, we have continually stressed that every effort should be made to reach a future relationship agreement with the EU that takes account of the interdependencies and interactions with the protocol and which also reflects the social, environmental and economic interests of our citizens and businesses. The extended timetable may delay further decisions by the Joint Committee on the outstanding issues in the protocol, as these are now affected by the work on the main negotiations and, in some cases, are closely interrelated. For example, the definition of "at risk" goods would be much less of an issue if we had a zero-tariff, zero-quota free-trade deal.

Since our last appearance at the Committee, Gordon and I accompanied the joint First Ministers to a meeting of the Joint Ministerial Committee on 29 October. Discussions focused on the future relationship negotiations and operational readiness, including the protocol and the Internal Market Bill. At the meeting, we emphasised the need to take into account the interdependencies between the negotiations and the implementation of the Irish protocol, and highlighted our concerns about the limited time left to conclude an agreement with the EU if it is, in fact, to be in place before the end of the transition period.

We also stressed the importance of taking into account the regional impact of any agreement and, in particular, the need to ensure that any agreement does not have a negative impact here. We also emphasised the critical and urgent need for businesses to have clarity on the remaining elements of the protocol's implementation so that they can prepare for the end of the transition period, including the need for the EU to take a pragmatic approach to the implementation of the protocol, given the negative effect of the lack of clarity and guidance on the ability of our businesses and citizens to prepare for the end of the transition period.

We provided an update on the points-of-entry project, emphasising that the Executive still need clarity on outstanding issues to ensure that the project was ready by 1 January. In relation to the Internal Market Bill, we highlighted that the Executive are agreed on the need for unfettered access for our goods moving west to east. In addition, the deputy First Minister noted Sinn Féin's concerns in relation to the clauses that could undermine the resilience of the Good Friday Agreement and the need to implement the protocol in full.

Regular engagement with the EU also continued through the Joint Committee and the Specialised Committee. The last Joint Committee meeting took place on 19 October, with the next one likely to be scheduled quite soon. Both sides recognise the importance of flexibility in approach. Since time is pressing, work needs to be accelerated on the decision needed by the Joint Committee in relation to the implementation of the protocol. A meeting of the Specialised Committee took place on 5 November and was attended by Andrew McCormick, director general of International Relations, and Lynsey Moore, director of the Executive's Office in Brussels. The report received is that that meeting was constructive and pragmatic in tone, and that the EU and the British Government recorded progress towards agreeing approaches on VAT, transit, medicines and the single electricity market.

There was also discussion of the implementation of sanitary and phytosanitary (SPS) checks on agri-food products arriving here from Britain. Ongoing technical sessions are being used to inform further

discussion in those areas. Given that all sides concur on the importance of an agreement, I hope that we will be in a position to report an agreed approach to these important matters at our next appearance before your Committee.

We continue to attend meetings of the Business Engagement Forum. That continues to provide the Executive with opportunities to engage directly with our stakeholders and hear their concerns on key issues impacting on the business community in the North. Recent meetings have covered issues such as the application of VAT on goods moved under the protocol, unfettered access, and preparing the retail sector for the end of the transition period.

Work continues on common frameworks. The British Government's revised common frameworks analysis, which was published in September, identifies 40 frameworks in which we have a related interest. Following further assessment, five of the frameworks no longer need any formal agreement for the policy areas to function. Of the remaining 35, 32 common frameworks completed their review and assessment phase between mid-October and mid-November. They are now ready for ministerial approval and to progress to provisional agreement by the JMC.

That leaves three frameworks that have presented difficulties in the review and assessment space due to the level of completeness. Those are the mutual recognition of professional qualification, services, and organics. Officials are putting in place the necessary contingencies for the end of the transition period should formal agreement on framework outline agreements and draft concordats not be arrived at. Work continues on the four common frameworks identified as fully implementable by 31 December 2020: the emissions trading scheme; hazardous substances planning; food and feed safety and hygiene; and, finally, nutritional labelling and composition standards, on which the Health Committee has already commenced scrutiny.

Finally, before I hand over to Gordon, I can also confirm that we are monitoring the potential for the Internal Market Bill to impact on citizens' rights. As you are aware, on 14 October, the Human Rights Commission and the Equality Commission here, alongside the Irish Human Rights and Equality Commission, indicated that they had written to the British Secretary of State seeking assurance that the Internal Market Bill would have no adverse effect on the no-diminution commitment in the protocol. We are keeping a watching brief on that issue as well.

Mr Lyons (Junior Minister, The Executive Office): Thank you very much, Mr Chairman. It is always good to be with the Committee to provide an update. I will focus on operational readiness for the end of the transition period, which was a key concern of many members during our last meeting. Whilst the Executive are fully supportive of the need to ensure that every effort is made to reach an agreement, we recognise that these talks could still result in an unnegotiated outcome. We understand the need for continued focus on operational readiness. To ensure that we prepare collaboratively, there is significant daily engagement between officials in the Executive and HMG. As part of that, senior officials continue to engage fortnightly with the UK Government through attendance at the Transition Period Readiness Portfolio Board. At ministerial level, Executive Ministers take part in the Government's Exit Operations Committee meetings as well as quadrilateral meetings with the Paymaster General and the other devolved Administrations, which consider operational readiness issues.

Engagement across Northern Ireland Departments has highlighted 12 day-1 readiness issues of varying impact that need to be considered. In addition to the day 1 issues, the Executive have identified other key areas where solutions and contingencies will need to be developed and in place, post transition. Given the short timescale until the end of the transition period, the Executive's focus will be on six high-priority impact risks, with Departments managing the risks and mitigations associated with the other risk areas and escalating to the Executive as necessary. Unsurprisingly, given the coverage in the press, the six key areas are: food supply; flow of regulated and priority goods, such as chemicals and medicines; business preparedness; data flow; facilities for SPS checks; and transport.

The most significant challenge for our operational readiness planning is the lack of clarity on the implementation of the protocol and its interaction with the outcome of the negotiations. We want to continue to highlight the impacts of that uncertainty at an official and at a ministerial level and to remind them of the commitment that the application of the protocol should impact as little as possible on the everyday life of communities in Ireland and Northern Ireland. A number of issues compound the effect on our food supply, including the listing of the UK as a third country, arrangements for supermarkets, and export health certificates. However, the mitigations for those issues are outwith the

direct control of the Executive, and work continues to ensure that equivalent and equally effective mitigations are in place for the end of the transition period.

A secure and reliable food supply, like medicines, is vital. That is why the First Minister and the deputy First Minister have written directly to the European Commission vice president, Maroš Šefčovič in relation to the SPS control impact on our food supply. We will, of course, continue to raise our concerns with our Government and with the European Union as discussions continue on those issues.

Mitigations are also being developed on the other five high-impact issues. Our officials are liaising with the Government to ensure that our requirements are taken into account in their contingency plans for the movement of critical goods, such as medicines, from the EU to GB. Our officials are working cross-departmentally to put in place arrangements to ensure the continuity of supply of such goods across the Irish Sea.

Plans are in place to provide further guidance to, and to engage with, businesses on the steps that they should take. However, that guidance and engagement can cover only the arrangements that are currently known. We recognise, and fully understand, the frustration expressed by businesses regarding areas that remain uncertain. Further guidance to businesses will need to be prepared and issued when those issues are resolved.

Trader Support Service is now in place, but it will be important that that service has been tried and tested before the end of the transition period to ensure its reliability and business confidence.

There is an increasingly high risk that there will not be a data-adequacy agreement in place by the end of the transition period. Mitigations for the impact of that continue to be raised by our officials at various levels in Government.

DAERA is progressing the work on the facilities at the points of entry. Temporary facilities will be in place for 1 January 2021, and the necessary staff and IT systems are coming into place. Work is also progressing on the permanent facilities that will be required.

Some of the transport issues may be resolved if there is a transport agreement as part of a wide-ranging agreement on the future relationship. However, if that does not transpire, alternative arrangements, including potential bilateral agreements, will be needed to secure our essential interests. In addition to those operational activities, work continues across the Civil Service in Northern Ireland and in the Assembly to ensure that all necessary legislation is in place for 31 December.

Work is ongoing to ensure that the Northern Ireland components of nine Westminster Bills are in place. Moreover, 30 Westminster SIs have still to be made and a further 47 SRs are to be brought before the Assembly. There is no doubt that there is a significant amount of work to be done in the next few weeks. With continued commitment and careful planning, there is little doubt that that key piece of work will be delivered.

I hope that that is helpful to the Committee, Mr Chairman.

The Chairperson (Mr McGrath): Thank you very much. I think that you have written the timetable for most MLAs over the next three or four weeks to deal with the issues arising. Thank you for the update and the information in it. Just before you came in, we met the Joint Oireachtas Committee on EU Affairs. I raised the point that, in media reports this morning, President-elect Biden said that, from his Administration's perspective, there should be no borders on the island of Ireland. I want to take a step back from this to try to depoliticise it so that it does not turn into a ping-pong issue.

Mr Stalford: Really?

Mr Clarke: You have just failed.

Mr Stalford: Really?

The Chairperson (Mr McGrath): Regardless of whether you see the priority for trade and for your political home as being east-west or North/South, to those outside the process, the Internal Market Bill appears to have caused serious problems and concerns. Can you give us an assessment of the impact that it has had on the negotiations that you are involved in?

Mr Kearney: Yes. The Executive do not have an agreed position on the Internal Market Bill. We have explained that to the Committee in the past. My party and I have very serious reservations about it, because we feel that it has far-reaching implications for strands one, two and three of the Good Friday Agreement. Our colleagues in Wales and Scotland have been very forthright in JMC meetings in setting out their view that it is a full-frontal assault on the devolved arrangements for Wales and Scotland. It has caused something of a furore even in the British Parliament.

The House of Lords Constitution Committee came out with a very serious critique of the Internal Market Bill. Now, that is in our setting. I think that everyone in this room would accept that, while we have a division of opinion on what the Internal Market Bill means in the here and now and for the future, the Executive are united on the need to ensure that the rights and the business interests of our society here are best protected, regardless of the Internal Market Bill, and that there is frictionless trade and commercial activity east-west.

It is clear that the Bill has had a very unsettling effect on the European Commission negotiating team; Maroš Šefčovič and Michel Barnier have been quite emphatic about that in previous meetings. Of course, that has been, I suppose, sharpened by the fact that representatives of the British Government have acknowledged that it represents a breach of international law. It has had repercussions, and the Internal Market Bill has created negative acoustics in the negotiations. The indications that we have received are that both sides are attempting at this time to take a very pragmatic approach to moving through the negative acoustics and the practical difficulties, as well as the legislative difficulties, that it may pose in the future. To that extent, it is impossible to give you a confirmed view of whether it is now throwing up a barricade or a barrier. My sense — it is only my sense — based on recent updates from officials, is that it will not create an intractable difficulty, even though it has had a very negative influence.

I will finish on this point with reference to President-elect Biden and his Administration coming into power in the States in January. His remarks and his most recent comments, alongside comments from the Speaker of the House of Representatives, Nancy Pelosi, and the Chair of the Ways and Means Committee, Richie Neal, have been very important in geopolitical terms by incentivising this British Government and the negotiation team to try to find a way through the difficulties in the negotiations at this time. His comments should be welcomed, in the sense that the new United States Administration are making very clear assertions about the importance of the agreement here, of our peace settlement being protected, of the island economy being protected and of the issues at the core of the negotiation on a future relationship between Britain and the EU needing to be resolved, and that is a helpful influence in wider geopolitical terms. I hope that it acts as an encouragement to the British side to recognise that, in order to maintain the special relationship between Britain and the US, it is in everybody's interest to see the best deal possible struck on the future relationship between Britain and the EU.

Mr Lyons: You are very optimistic in thinking that you can step back from the politics and throw the Internal Market Bill into the mix. It is one of the most politically divisive pieces of legislation for some people. There is a divergence of opinion in the Executive Office on that Bill.

Declan has set out where his party is. We have talked about this before. The DUP takes a different approach because it is a good step towards recognising Northern Ireland's place in the United Kingdom. In fact, clause 40(1) of the Internal Market Bill says that Government must have special regard to:

"(a) the need to maintain Northern Ireland's integral place in the United Kingdom's internal market;

(b) the need to respect Northern Ireland's place as part of the customs territory of the United Kingdom; and

(c) the need to facilitate the free flow of goods between Great Britain and Northern Ireland with the aim of—

(i) streamlining trade between Great Britain and Northern Ireland"

That is something that we should all be in favour of, because it is good for everybody in Northern Ireland. It is not just an issue for unionists; it is good for all of us.

I cannot speak about how it is affecting the negotiations, as I am not in there. Declan has already set out that concerns have been raised by some in the Joint Committee. We have expressed that we welcome the certainty that that might bring to businesses in Northern Ireland that are concerned about the protocol. However, we are united as an Executive, and, I hope, as an Assembly, in wanting to make sure that we get the best deal for people in Northern Ireland.

The one should not be pitted against the other: is it east-west versus North/South? That would be wrong. What I want to see happen is a free flow between east and west and North and South, because it is good for Northern Ireland and for all our people.

Unfortunately, some people approached the Brexit debate by, first, trying to prevent Brexit, and Northern Ireland has been used as a pawn in all of this. I am very disappointed that that has been the case. I want to see flexibility shown to Northern Ireland. There is no reason why that flexibility and goodwill cannot be shown, because it has a huge impact on us. If the protocol is implemented as some people want, it will have a hugely detrimental impact on Northern Ireland.

I note Joe Biden's comments. He said that he did not want to see guards at the border between Northern Ireland and the Republic. That was never going to be the case, and it is not something that anyone in this room wants to see. The President-elect can rest assured that that will not happen. That will not pop up. The real threat to our peace and prosperity is the danger of the additional barriers between east and west. They are not something that I want to see. They change the constitutional position of Northern Ireland, which goes against the Belfast Agreement.

We are working towards making sure that we can have free, frictionless movement and a free flow of goods North/South and east-west.

The Chairperson (Mr McGrath): I am sure that, when your assurances are relayed to President-elect Biden, he will take comfort in them.

Mr Lyons: I am sure that he will hear about them very soon.

The Chairperson (Mr McGrath): I was careful in asking that question, regardless of your perspective on the Internal Market Bill, to find out from you an assessment of its impact. I appreciate hearing, essentially, the two sides to it, as it is important to gauge its impact.

The Welsh Government, as I understand it, recently published an action plan for the end of the EU transition period. Is it the intention of the Executive to do something similar: to produce a road map for what will happen after 1 January that can be detailed to businesses, communities and groups to explain what will happen next?

Mr Lyons: Whether that will be in a single codified document is not something on which I can give you an assurance today, but it absolutely is the case, because of the impact of the protocol and our circumstances here, that we have a lot more concerns around the whole process as it carries on. There has been extensive work done on all those issues to make sure that we can give businesses as much certainty as possible on how we plan and prepare for the future. So much of this will be dependent on what the protocol looks like, and so much of the protocol will be dependent on what an agreement looks like.

We have had excellent engagement with businesses and other groups in Northern Ireland throughout the process. We will want to continue that, and anything that we can do to help as we move forward is something that we will look on very favourably.

The Chairperson (Mr McGrath): How have the Welsh Government been able to do that at this stage? Are you aware of that document? It is not a trick question, but have you seen their action plan or have they mentioned it?

Mr Lyons: I have not read it all, I will be honest. I have not seen all of that, but there is a fundamental difference between what is happening in Wales and here. There is additional uncertainty here because of the protocol that we have to implement.

Mr Kearney: To add to what Gordon has said, we now have a fully operational interdepartmental working group. We touched on that before, but that has been stood up, as you know from comments that we shared with you about the Civil Contingencies Group (CCG) hub. Its responsibility for COVID

and the forward look towards Brexit allows for the interdepartmental working group to coexist alongside the C3 hub.

That allows, where required, for a coordinated and joined-up approach to be taken towards COVID recovery, as well as overlapping issues that may arise from Brexit. We are now receiving regular reports on a heat map, which horizon-scans immediate issues and pinch points and sets out how those are de-escalated as matters of priority.

The Executive are also receiving a countdown action plan that enumerates the various issues and actions, as well as where the responsibility lies for taking forward those actions and the completion dates. It tasks and completes, and that sets out a clear framework within which the operational readiness issues are now being considered and then previewed.

The Chairperson (Mr McGrath): We met council representatives over recent weeks and heard their concerns, particularly over finance and the income streams that would have been guaranteed from European funds. That funding is now not in jeopardy, but its source and how it will come through is being questioned. I understand that the UK Government are going to use the financial assistance powers in the Internal Market Bill to implement the shared prosperity fund (SPF). How is that fund going to work? Have there been headline considerations? Will it come under the Barnett consequential? Will it be delivered as, "We're going to tell you what money's for, and then you deliver it" or, "We will give you money, and you can determine what it's for"? Have there been conversations about that shared funding and how it will make its way on to the ground?

Mr Lyons: Not between the Executive Office, but there have been ongoing conversations with the Department of Finance. The Finance Minister has met TEO on a number of occasions, and we are told that he is in regular contact with Ministers in the Treasury to seek clarification and detail on the proposed fund and to press the case for maximising the fund locally. There has also been collaboration with Scottish and Welsh Ministers on that as well. It is expected that a lot of those decisions will take place following the spending review. We therefore hope to get more detail on that in the coming days.

The Chairperson (Mr McGrath): That is something that we, along with the Finance Committee, are keen to keep an eye on.

We had the Special EU Programmes Body (SEUPB) before the Committee last week. The SEUPB has an amount of money at its disposal, within broad headlines, but it can examine groups and projects to see to where funding can be directed. We are just conscious that, if, suddenly, the money is handed out to be spent on x, y and z, and there is little flexibility there, that could create difficulties going forward. Let us hope that there is that flexibility for us.

Mr Beattie: Declan and Gordon, thank you for the presentation. That was one of the best briefings that I have had so far. It really did clarify a lot of issues, as well as raise them. From listening to you both, I get the sense that Northern Ireland is so low down the order that it is hard for us to influence what is happening with the agreement and to the protocol. It is a bit like a roller coaster that is going down in a particular direction. We are holding on and do not know where it is going to stop, and I am really concerned about that. We have mentioned planning before and how we plan without knowing all of that.

Declan, you mentioned planning, but I am concerned about what the Executive Office planning and modelling is for a non-agreed outcome and an agreed outcome. What is the best-case scenario? What is the worst-case scenario? I will get into the weeds a little bit. If there is an agreement that means that export health certificates will be required for foodstuffs coming to Northern Ireland, and therefore a reduction in the foodstuffs coming in, and that then creates a deficit and an inflation in the price of foodstuffs that affects our lowest paid, is the Executive Office talking to the Department of Finance, the Department for Communities and the Department for the Economy to try to make sure that we mitigate that now? If that plan is being worked up, can the Committee get sight of what it is likely to look like, if that is the worst-case scenario? What is the off-the-shelf plan for the worst-case scenario? What is the off-the-shelf plan for the best-case scenario?

Mr Lyons: First, thank you for your words. I am glad to know that we are getting high marks today for our presentation.

The Chairperson (Mr McGrath): Hold your whisht. It is not over yet. *[Laughter.]*

Mr Lyons: We are glad to come here and give detail to the Committee. First, we want to target where the problem is at. There is always a role for planning in that: that is absolutely correct. It is important, however, that the Executive Office focuses on tackling the problem rather the consequences of that problem if it is not solved. We are engaging with the Government and the EU on mitigations for issues such as food supply and food security for our citizens.

You said, Doug, that we are very far down the order. I think that we are punching above our weight and have had an impact through the Joint Committee in particular, on which we have the opportunity to express our concerns, and, at a more detailed level, through the Specialised Committee. Planning is going on for all contingencies. I do not have that planning in front of me or to give to you today, as you would expect, but, yes, a number of scenarios are being looked at. We are also taking part in a number of exercises to ensure that, even in a reasonable worst-case scenario, we know what needs to happen. Officials are working very hard across all levels of government. Those key, high-impact issues have been identified, and contingency plans are being considered. Declan may want to add to that.

Mr Kearney: The engagements are taking place on a bilateral basis between the interdepartmental working group on behalf of TEO and all the Departments in the Executive. No Department is content. All Departments are facing very challenging circumstances, whether that be Health, Infrastructure or Agriculture. Some Departments are going to face much greater challenges than others, but this is impacting at every level. There has been a significant and noticeable upswing in access for our officials to the officials who are sighted on the progress of the negotiations, and that is allowing for this level of clarity about scenario-setting to take place. As Gordon said, however, there is a series of key issues that needs to be satisfactorily resolved. A series of priority issues for day one has already been mentioned in the briefing. The focus is very heavily on ensuring either that we have solutions on day one or that we have pathways to those solutions. Take the example of where we have difficulties at the moment with at-risk goods and the definition of those. It may be that what will have to happen is for the main deal, which is the future relationship agreement, to be bottomed out in order to create a pathway that will allow for compliance on the food and meat issues. The meat issue that has flared up in the past fortnight is a very significant concern for the Executive. The plan is therefore a combination of setting out scenarios, getting a focus on them and endeavouring to find solutions, while horizon-scanning and scenario-setting for what has not been resolved at this point and trying to put ways and means in place to deal with those situations.

One last thing that is perhaps relevant to what you have asked, and this goes back to some of Colin's earlier questions, is that our officials tell us that the British Government are increasingly indicating a level of operational readiness in their assessment of the negotiations. That is, however, without sufficient regard for the issues that our officials have been raising. That is nothing new. We have repeatedly told you that, when you are not in the room, you are significantly handicapped in the extent to which you have influence. That is why we seem to be getting indications from the British Government that they are slightly more optimistic about where all of this may land, but our officials are saying that we are not there yet. As a result, there is a need for a problem-solving engagement to deal with that. Our officials say that they are talking to others in the British Government system who are receptive to and understanding of our concerns, but those concerns are not then getting into the room, or not being prioritised or bottomed out in the negotiation room in the attempts to find solutions. One of the considerations that is being reserved by our officials is that we may need to escalate those concerns to a very high political level in order to ensure that the issues are then taken into the room and that there is an urgent resolution found to them. That is reflective of the nature of the engagement that the officials are having at the minute.

Mr Beattie: I guess that that is the point that I was trying to make. It felt as though we were on a roller coaster, because we have that extra layer to get through, which is the protocol, and you cannot really hit the protocol until the other piece is done.

I am not trying to spread alarm in any shape or form, but it is funny that we were saying in October, "October is awfully late to be getting a deal here". We are now sitting halfway through November and are talking about going into December. I will give you an analogy. People perhaps do not realise this, but, if there is a flood in England and a small town is cut off and foodstuffs do not get in, what you do not see is that the people there are all in the supermarkets and shops buying up everything on the shelves. You do not get to see that. It is very low-key. If foodstuffs were not to get into Northern Ireland, however — if Asda were to withdraw and Tesco were to say, "We cannot get food in" — we would end up with the very same thing that we are now seeing with COVID: panic buying. If we have that panic buying, and you see empty shelves, you get a perception that there are food shortages in Northern Ireland, and the perception of food shortages can create civil unrest. What messaging are we

therefore trying to put out there to make sure that people realise that there are not going to be food shortages and that the Government, in some way or another, if extra checks are put in for whatever reason — you know that we do not want those checks, but they may be put in — will make sure that there are not going to be food shortages. How are we getting that message out?

Mr Kearney: I think that we are very focused —

Mr Lyons: Yes.

Mr Kearney: — on those concerns, regrettably. That is because we are getting to a potential end point, and that is an unresolved issue. There are issues for hauliers, and concerns are beginning to be expressed around supply chains and access to foods. Our large supermarkets are expressing concerns about getting foodstuffs and supplies across the Irish Sea. It is clearly recognised as an issue that we need to have resolved, and that is why it has been escalated in our approach. In some ways, we are potentially at a point in this negotiation at which, because it is coming to a conclusion, possibilities for a resolution are now escalating. In some ways, we are at the point of greatest advantage and pressure in trying to get critical issues resolved. That plays very heavily on the minds of our officials, thus ensuring that, as they engage with their counterparts, those issues are identified as very significant ones for us, because we are on a different land mass. The problems are therefore significantly magnified.

You asked what the public messaging is. The answer is that we all knew that this was a major problem and a serious challenge for our society. Our Executive are absolutely committed to ensuring, and determined to ensure, that those concerns, which could become very febrile in the minds of ordinary people, are resolved to everyone's satisfaction and with as much reassurance given as possible, but we are not there yet.

Mr Beattie: Thank you for that. This will not be another question. I may have used food as an example, but we are talking about business, transport and goods. If I can come back on that, as an MLA, I want to go to my constituents and reassure them. I have to see something in order to say, "Do not worry. If this happens, this is what we are doing". I need to see that. If we do not reassure our constituents, and let us all face it here, and I am not blaming anybody, they have not been reassured by what we, collectively, have done on COVID, so I am concerned about them not being reassured on Brexit. I would like to be able to say to my constituents, "If this happens, this is what we will do". For that to happen, we need something off the shelf that we can tap into. That is just a general comment.

Mr Sheehan: The Internal Market Bill was touched on earlier. We know that it was heavily defeated in the House of Lords, but the British Government have said that they will bring it back. The Welsh and Scottish Governments have been particularly vocal in their opposition to the Bill, saying that it will undermine the devolved arrangements in their respective countries. Can you explain what impact the Internal Market Bill could have on our devolved arrangements and our power-sharing Executive?

Cabinet papers warning that there could be a systemic economic crisis were leaked in the English media this morning. As a double whammy, what impact would that have here, if it were to happen? Go raibh maith agat.

Mr Lyons: I managed to hear a little bit of the previous conversation, and I hear your comments about the Internal Market Bill. It seems as though Sinn Féin and our friends from the South are now great advocates of the House of Lords and seem to think that its Members all doing a great job. I am not going to rehearse —.

Mr Stalford: The DUP ones are.

Mr Lyons: The DUP ones are. *[Laughter.]*

Mr Sheehan: I raised it in the context of how divisive the Bill actually is. It was not a narrow defeat; it was very heavily defeated in the House of Lords. It is not for me to interfere in how the British want to organise their own parliamentary system, but it does highlight the divisiveness of this particular Bill. What I am more concerned about is the impact that it will have on us and our own constitutional arrangements.

Mr Lyons: We have already set out our stalls today on where we stand on the Internal Market Bill, and we had a prolonged conversation about it at our previous Committee meeting. We will have different perspectives on this. I see that there are protections in there for Northern Ireland and that the Bill strengthens and helps to support the internal market of the UK, which is important for our future prosperity. It is important for the things that we want to see for our own citizens. Anything that can protect the internal market and ensure that it continues, and ensure that there continues to be a free flow of goods between Northern Ireland and the rest of the UK, is a good thing.

On your other question, COVID is a huge challenge. That is why, when it comes to Brexit, I want to make sure that we have that certainty. That is why it is so important that we all work together to ensure that there is a deal, that that deal is good for Northern Ireland and that the protocol is implemented in such a way that there are no damaging impacts for Northern Ireland. There are risks for here as a result of the protocol as well. I want to make sure that we get beyond those, where that is possible. What should be at the front of our minds is our citizens and the people whom we represent. I recognise the challenges that the protocol and COVID bring. We need to work together to make sure that we get the changes that we need to ensure the best outcomes for our citizens. There will always be political differences, and differences in opinion and point of view, but that is what we are striving for and working towards.

Mr Sheehan: Do you not foresee any negative political or economic outcomes?

Mr Lyons: I do not think that there need be any negative political outcomes for us in Northern Ireland. I recognise that the process of leaving the European Union has been one in which people have taken very strong opinions on either side, although, if you look at how the Executive have approached it over the past number of months, we are united in wanting to make sure that we get a good deal. The First Minister and the deputy First Minister have written together to the vice president of the European Commission to express our concerns. I do not think that any of this should stop us from working together. Parties in the Assembly may disagree with how the Internal Market Bill has come about, but we should all agree with its aim, which is to protect the internal market of the UK. That is necessary for our prosperity.

Mr Kearney: We will not rehearse the earlier conversation or the differences, because we in this room are all well enough acquainted with what those differences are. When the Internal Market Bill was introduced, however, aside from the admission that it represented a breach of international law, we were told that it was spawned in an attempt to create negotiation leverage and would be used only if the EU and the European Commission did not cross the line. As an objective, I do not think that that has worked. We are now left with the Internal Market Bill, and I have concerns about how it could impact on the three strands of the Good Friday Agreement in different ways.

To answer your question on COVID, it is generally accepted that we face, if not a global economic recession, recession in certain countries certainly and very severe economic difficulties in others. We are very much in the territory of very serious economic difficulty post-COVID, and I believe that Britain is also in that territory. There is an economic wind coming at us that has all the stuff of a perfect storm.

Clause 46 of the Internal Market Bill gives primacy back to the British Government and the British Secretary of State to make spending priorities in the North. It seems to me that there is a potential contradiction there, with powers potentially going back to the British Government, arising from the Internal Market Bill, that may hamper or dilute the ability of the Executive to work most effectively. In the context of even greater economic challenges in our region, on the island and between the two islands, our Executive need to be liberated and empowered to make decisions, set priorities and seek to deliver on them in the best interests of our citizens, rather than an assumption being made outwith this place about what is required in the midst of an economic recession. That is my fundamental concern about the two points that you raised.

Ms Anderson: Thank you, Declan and Gordon, for that. It was a very good presentation. I have found all your presentations on Brexit very helpful, informative and useful, so I want to thank you for that. Despite the fact that the British Government are treating the five parties of the Executive like mushrooms and keeping you in the dark, I agree that you are punching above your weight with very little information. As you said, maybe you are not there yet in making an impact on those negotiations, and you may have to elevate some political noise about that.

Today in the EU, Ursula von der Leyen has said that the EU is ready and prepared for a no-deal, because we are only 35 days away. We know that the Irish Government are ready and prepared. They

have spent millions and, whatever happens, a Brexit omnibus Bill is going through the Oireachtas. We then had President-elect Joe Biden's comments today — reassuring comments for some of us — with regard to his position on Brexit and a future relationship between the British Government and the USA. Do you think all that combined may, in any way, have a bearing on a future relationship? If the British Government are hearing, observing and watching what is going on around them, do you think that that will accelerate? There does not seem to be any urgency or emergency, yet we are only 35 days away from Brexit.

Mr Lyons: I do not know how useful it would be for me to comment on what effect the actions of others will have on a third party. The EU and the Irish Government saying and emphasising how prepared they are for a no-deal is part of the negotiations. It is all part of the playing out of those. It is not for me to say what impacts something that one person says will have on another. From our point of view, we have been involved in getting our views across and in making sure that the concerns that people here have are heard. That has actually got national and international coverage because of, for example, some of the interventions that the First Minister and the deputy First Minister have made over the last number of weeks. That is what we need to focus on, not the tittle-tattle or the he-said-she-said that is going on around that. There is plenty of that going on.

Our focus needs to be on recognising the serious implications that the protocol can have for Northern Ireland, communicating those concerns to our Government and the European Union, which we have done, and making sure that we emphasise the need for those issues to be addressed, not because of politics but because of the impact that it is going to have on our citizens. That is why we have been effective and why our voice has been heard on those issues. No matter what takes place, I know that it will not be because our voice has not been heard or our concerns have not been aired. We need to keep our focus on communicating those areas of concern.

Mr Kearney: There are a number of moving parts, so I agree with Gordon. Whether it is due to the passage of time or because we have arrived at the point of greatest leverage, as I said earlier, our officials feel that they are having an impact on their counterparts, but that is not getting into the negotiating room as an understood or internalised priority. That is an improvement from where we were some months ago, when our original hearings and presentations to you would have been much more doubtful and unclear than they are now. We do not have a result — we cannot declare a result — but you can see that the dynamics have changed and the parts have been moving.

The second thing is where it is relevant to revisit briefly my point about the Internal Market Bill. No system is monolithic. The House of Lords is not monolithic, and that is why individuals there will express concerns or offer sharp critiques of the Internal Market Bill, whilst others will be supportive and tolerant of it. Some of the initiatives taken by the two joint First Ministers have also been timed to try to reach out to those within the European system who appear to be not only influential but most attuned to our needs. We are aware that the latest initiative was well received by Maroš Šefčovič and his officials. They understand the issue and have told us that they want to be as helpful as possible in that regard.

My last point is on the wider geopolitical circumstances. No system operates in isolation from other geopolitical influences and pressures; no system is monolithic, nor does it operate in isolation. To that extent, Ursula von der Leyen's comments, which I read this morning, are useful insofar as she indicated that there is the potential for a deal but that we are not there yet, and she actually indicated what the issues are that remain extant. She said that it is much better to have a full member than a good partner, but intimated that, if you are getting a good partner, then that is a good situation. That indicates the potential for a landing zone for a future relationship arrangement. When you then take into consideration the commentary, words and interventions from the US combined, I do think that all of that — it might not be prescriptive or have the desired result that all of us would want, but I do not think that those involved in the negotiations are impervious to those kinds of comments being made by the President-elect of the States; the remarks, to be decoded and translated, from the president of the European Parliament; and the efforts that we ourselves are making to try to ensure that we click with those moving parts and influence them in a direction that gives us our preferred result.

Ms Anderson: Gordon, I am not saying that you regard everything that is happening as white noise and negotiation. As a former MEP, I know that they are very precise and very legalistic, and in 35 days' time something is going to happen one way or another, so they will be very prepared, whatever the outcome. Hopefully, the outcome is a future relationship and a deal that all of us want.

You talked about operational readiness, Gordon, and the thing that struck me when you named the six high-risk items was that two of them were chemicals and medicine. Could this Committee be provided with the modelling that is going on? I have no doubt that the Civil Service is working very hard on what might be coming at us, but at the Committee for Infrastructure I have been asking for an estimate, a guesstimate or an indication of the cost of the chemicals that we need to purify our water. What will be the cost should there be a deal, should there be tariffs or should there be no deal? Just give us an outline, because it would give some reassurance to some of the constituents that are coming to us if we have the modelling. Depending on our political ideology, some of us might not like whatever the outcome is, but we need to have a pathway and know and understand what is going to happen. It is like the supply chain; there is going to be disruption to the supply chain, but, at the end of this transition, if there is no deal and we go over a cliff, we have a parachute and it is called the protocol. You may not agree with that, but we have a supply chain across Ireland. The EU and the Irish, whether it is some of the big supermarkets, may have to go elsewhere. Some of the councils are saying to us that they may have to look at transporting waste management differently, and the protocol will help them do that. So it would help us to understand the kind of modelling that is taking place, and that I assume is being presented to you, for what will happen in the event of there being a deal or there being no deal and the implications of some kind of a deal. That is information that would be helpful across all of the Committees.

Mr Lyons: Where it is appropriate, I am happy enough for that information to be shared. Obviously, there can be sensitivities around some of this information as well, but whatever we can provide to the Committee, if specific requests are made, I am more than happy for us to look at that and see how we can be helpful, because if in any way that provides even some clarity to our businesses and citizens that is a good thing.

In relation to your earlier comment with regard to the negotiations, yes, various people may say different things at different times. I am not saying that all of that is worthless, but we are in the middle of a negotiation, and sometimes people will bare their teeth and sometimes people send out messages in order to bolster their own opinion. I understand that you have experience for a number of years as a UK MEP, so you will have some understanding of that, but we can also read too much into what the President-elect has said, because it is certainly the case that there is nothing that he has said that the vast majority of people around this issue would have any disagreement with. Nobody wants to see guards at the border. We want to see good relations on this island, and we want to see good relations with the rest of the UK as well. I do not think that that is any great encouragement because it is the position that so many people share already.

Ms Anderson: I will not bite, Gordon.

Mr Lyons: I was hoping that you would.

Ms Anderson: Ah, but, Gordon, I knew what you were trying to do.

The Chairperson (Mr McGrath): I did just think that we were doing so well there.

Ms Anderson: I know. Everybody out there would have known what Gordon was trying to do. A wee bit obvious.

Mr Stalford: In 35 days or so, we will see just how committed to best endeavours that people were. In the meantime, the Internal Market Bill represents a backstop to their backstop, and that is why it is productive and useful, because the position that we had got ourselves into was, and is, a case of Northern Ireland being used as a negotiating chip or what have you.

Secondly, Mr Chairman, I say to you that it is the absolute right of the United Kingdom Government to protect the constitutional integrity and the internal trade arrangements of their own country, regardless of who is in Capitol Hill or in 1600 Pennsylvania Avenue. In a world of free countries, it has always to be the case that people are entitled to make their own arrangements in how they are governed, how they trade and how they operate. It is intolerable that any country should be expected to erect an internal trade barrier on its own sovereign territory. I hope that, at the end of the period that we are in, that will not be the case.

I now want to pivot completely away from all of this and the Internal Market Bill, which has dominated the conversation, and raise an issue that was raised in the Economy Committee, on which I also serve. In terms of business preparedness and allowing people access to advice and stuff like that, I

know that a lot of work has been done in terms of radio advertisements and online, such as on nibusinessinfo.co.uk and all of that. As we get closer and closer to the conclusion, is there a comms strategy in place to allow businesses to access advice and help and to enable them to be prepared for any outcome?

Mr Kearney: We need to ensure that that is in place. The interdepartmental working group within TEO has an overarching responsibility to address readiness issues and also to prepare for a scenario where there is no agreement. It needs to have contingencies in place for all of that. The crux, which you touch on, is ensuring that all our businesses have the necessary information. I suspect that you, as well as I, know that there is a huge amount of uncertainty and fragility out there in our business community at this point in time. I was concerned to note that, on the occasion of the last business engagement forum on 9 November, the business representatives present were still, at that stage, reporting concerns about the approach taken in engagement and communication and about how fragmented that was. This is about us coming to them in relation to providing reassurance with regard to various areas of business preparation. What arose in that particular meeting were concerns about VAT and accountancy issues and about being properly scaled up to deal with what is coming down the pipe.

The communication is on two levels: first of all, the business engagement forum has done a number of meetings now. At the very outset, I expressed concern to the NIO Minister in attendance that the nature of the presentation given to our manufacturers and businesspeople was much too fractured and fragmented. Clearly, that has not been resolved. In some ways it is handicapped as a result of the difficulties that we have been outlining to the Committee on previous occasions. We do not have the information, therefore it cannot be communicated. That needs a fix in relation to ensuring that small to medium-sized businesses know exactly how they are going to handle their books in 35, 40, 45 days' time. In wider media communication terms, there is a need to ensure that they are all being reassured that we have a grip on the situation and that, as the information is bottomed out, they know how access that in a very timely way.

There are two elements to what you are saying, but the communications are critical, both within the room and then online, in ensuring that our business community and the business sector generally are, in all aspects, being properly equipped with the information that they need.

Mr Stalford: What has happened is that, in the first two and a half months of this year, everybody was talking about Brexit, and then we were just buried under the coronavirus avalanche. People, certainly in terms of public attention, are obviously still very much more focused there. Whatever the outcome, it is really important that we are in a position where, from day one, bang, people know what they are doing and they are getting clear, concise advice, because the coronavirus pandemic has shown us that, even as regulations change, people end up chasing their tails because they just do not understand what is happening or in terms of business support and grants and stuff like that. I do not need a response, but I think it IS really important that on day one, whatever comes, the Executive are in a place to give clear and decisive messaging and leadership.

Mr Lyons: The only thing that I would add is that the Trader Support Service is there and is in place. However, there has been concern about the low uptake that there has been.

Mr Stalford: Yes.

Mr Lyons: Part of that as well, though, is that businesses are saying, " Well, we do not know now what it is going to look like in January anyway, so how can we really plan and prepare for that?" There are also concerns over the scalability of the Trader Support Service and the fact that it is not perhaps as suited to specialist customs declarations or sanitary and phytosanitary (SPS) checks as well, which is a bit of a concern. It is absolutely right that, when we have information, we provide as much information as possible to businesses. They are seeking that clarity, which is why it is so important that we get that agreement in place as soon as possible so that the implications of the protocol can be worked out as soon as possible. It is only when that is done that businesses will have the certainty that they are looking for.

It would be remiss of me not to comment on the member's first remark. He will not be surprised to hear that I am in total agreement with him, which is a sensation that I am sure many members across this Committee are familiar with. I so often get surprised at the outrage that some people are showing towards the fact that Northern Ireland is part of the UK internal market and that its Government wants

to protect and enhance its place in that, but I will be testing your patience, Mr Chairman, if we talk on that issue any further.

The Chairperson (Mr McGrath): Yes, my patience, junior Minister, is very strong. I am going to move on. Emma, do you have a question?

Ms Sheerin: Yes, thank you, Chair. Can you hear me?

The Chairperson (Mr McGrath): Yes, indeed.

Mr Clarke: Oh yes, we can hear you. *[Laughter.]*

Ms Sheerin: I am never sure. The wee mute button does not seem to deactivate when I hit it, at times.

Thanks very much, Declan and Gordon, for presenting to us again this afternoon. I have taken quite a bit out of the conversation thus far. I just want to ask a question around the issue of immigration into the North up to this point and as we proceed out of the EU, with things changing from January, with particular reference to cross-border workers and frontier workers. I think that the scheme was announced by the British Government. You may be aware of a letter that was written to the British Secretary of State from the Committee on the Administration of Justice (CAJ) and a number of other organisations, including STEP in Dungannon, which is almost in Mid Ulster. A bit of our constituency crosses the border or is on the border, and we have quite a number of cross-border workers, particularly in the agri-food production sector, or food factories, in Mid Ulster, as well as a lot of healthcare workers, all of whom will be impacted by this. Concerns have been raised about the British Government's implementation of the scheme in the tight time frame that they have provided and the fact that they are not aware of exactly how many workers this is going to impact. There is also a worry that the messaging has not been targeted as it should have been. What conversations have you had about that? Following on from that, do we have any idea how this is going to apply to —. There is not an allowance for British citizens in the scheme, and we have seen with the Emma DeSouza case that all residents in the North or anyone born in the North is treated by the British Government as being British. That will have implications for people who may not think that they will be impacted by the scheme.

Mr Kearney: Emma, I think that you are touching on the permit scheme for frontier workers that was introduced by the British Government. As I understand it, the withdrawal agreement itself —

Ms Sheerin: Yes, that is *[Inaudible.]*

Mr Kearney: — offered protections for the rights of frontier workers. It will affect quite a number of people in Ireland. I have read that possibly as many as 30,000 people fall into the category of being a frontier worker. The scheme, as I understand it, is designed to address the fact that those people will no longer be able to lean on the rights that they would have otherwise had as citizens of the EU. The reason there is such a lack of clarity around that for organisations such as CAJ and others is that there was not sufficient or any consultation carried out on the operation of the scheme. That is the problem. In the absence of a consultation, those answers have not been provided. That leaves a casualty in the middle of the current situation. We need to be very attentive, particularly as we move through the next 30 days and more, to ensure that no citizens are caught on the wrong side of a right that was there previously but that has been removed, with no protections or contingencies to ensure that they can continue to work.

On the broader issue of migrant workers, in the context of COVID, when you think of the pressures that our health service is under, given the large number of people who have come here to populate our health service as nurses, doctors and health practitioners —. Given the pressure that it is under, the resilience of our health system is on the floor and our hospitals are under very severe pressure. I do not think that we can run a health service without relying upon that level of expertise and quality of healthcare. We are back into the territory of there being a perfect storm in terms of how COVID can overlap with EU withdrawal and the absence of agreement on some of the key issues.

Mr Lyons: You asked specifically about the engagement that we have had with the Government on that. We have had quite a few Brexit meetings, but I do not remember having any direct engagement on it, though I am sure that it has happened at either FM/dFM level or official level. However, the deputy First Minister and I recently met the Equality Commission to discuss the dedicated mechanism

that is in the protocol. I believe that the Equality Commission was in contact with the Secretary of State. I do not know if it was specifically around all of these issues, but it was certainly with regard to the rights of citizens more generally. If you have any specific queries or concerns around that, Chairman, we will be happy to accept those and to chase those up, whether those are answers that we can get from within our Department or if we need to go to HMG on that. We will be happy to provide that. We are talking about people here, their jobs and their futures, so we want to be able to give as much clarity and certainty on that as possible.

The Chairperson (Mr McGrath): OK. Are you happy enough, Emma?

Ms Sheerin: Yes, thank you. It was the permit scheme that I was referring to, just because it puts a deadline of June or July for people to have applied by it, and they have to have met the criteria by, I think, the end of this year. So there is quite a tight time turnaround, with everything that has happened in 2020. Specifically, I suppose, I made reference to the fact that there are so many people who this would apply to who are working in the health sector and are already overworked and under a significant pressure. It is going to disproportionately impact on the North because we share the land border, and that is why all of the implications of Brexit are going to be felt more keenly in the North of Ireland, as we have this land border and so many people live across that every day. That is why I wondered if there were specific conversations on the issue with regard to our devolved Administration. Thank you both for that.

The Chairperson (Mr McGrath): OK. Thank you, Emma. I also detected that there might have been a suggestion that the frontier workers you were worried about were those who were living in Dungannon and going into Mid Ulster. Was that a little bit of concern there? Was that something I noticed? Maybe that is for another day.

George, do you have any questions?

Mr Robinson: No, I am fine, Chair. Thank you.

The Chairperson (Mr McGrath): OK. Junior Ministers, thank you very much indeed. You have stayed with us for quite a length of time today and you have given us a lot of information to mull over. It certainly feels like things are moving in some direction; I am not sure if it knows which direction it is going in, but there does seem to be a bit more information that is flowing back and forth, and it is good to receive that information and to chat it through with you. Thank you very much for your attendance here today.

Ms Anderson: Thank you.

Mr Kearney: You are very welcome.

Mr Lyons: Thank you.