



Northern Ireland
Assembly

Committee for Agriculture, Environment and
Rural Affairs

OFFICIAL REPORT (Hansard)

Border Control Posts/Points of Entry:
Department of Agriculture, Environment and
Rural Affairs

4 March 2021

NORTHERN IRELAND ASSEMBLY

Committee for Agriculture, Environment and Rural Affairs

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Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr Harry Harvey
Mr William Irwin
Mr Patsy McGlone

Witnesses:

Mr Norman Fulton	Department of Agriculture, Environment and Rural Affairs
Mr Robert Huey	Department of Agriculture, Environment and Rural Affairs
Mr Mark Livingstone	Department of Agriculture, Environment and Rural Affairs
Dr Denis McMahon	Department of Agriculture, Environment and Rural Affairs

The Chairperson (Mr McAleer): I welcome via StarLeaf Denis McMahon, permanent secretary; Robert Huey, the chief vet; Mark Livingstone from Brexit contingency planning; and Norman Fulton, head of the food and farming branch. I thank the officials for coming to the Committee at such short notice. No written papers have been provided due to the short notice provided to attend this meeting. Denis, Robert, Mark and Norman, please kick off your briefing to the Committee.

Dr Denis McMahon (Department of Agriculture, Environment and Rural Affairs): Thank you very much, Chair. Can you hear me?

The Chairperson (Mr McAleer): Yes, loud and clear.

Dr McMahon: There is another reason for not having a briefing paper. Believe it or not, we had a briefing paper prepared early, and we have been doing quite a bit of work on making sure that we get briefing papers to you earlier. That is for another day. We had an announcement yesterday also that the Minister felt that we needed to include. Hopefully, we will cover that today in the verbal briefing.

Thank you, Chair and members of the Committee, for the opportunity to provide an update post-EU exit. I thought that it would be helpful to elaborate on some of the information that, hopefully, you will have seen, in particular to give you a sense of the scale of work that has been done to date and the

challenges ahead. Obviously, the Committee wishes to understand the position regarding the Minister's decision on Friday 26 February 2021 to write to me, asking me to halt, first, work on the development of permanent facilities for sanitary and phytosanitary (SPS) checks and, secondly, for charging for SPS checks. We have not started charging but are in the process of developing that.

On the first issue, the Minister stated:

"Given the uncertainty, lack of clarity and the ongoing impacts of the protocol to date, I am instructing officials to halt all work relating to the programme for permanent builds at the ports, recruitment, current and planned, of additional portal staff, including vets, and any engagement with DEFRA on the matter."

On the second issue, the Minister stated:

"I am issuing an instruction to halt all work in relation to OCR charging."

The Minister noted that he had raised the second issue with me at a ministerial update meeting on 16 February, which indeed he had.

Where does that leave us? We are in the process of seeking legal advice on these two requests, and we will be briefing the Minister accordingly as the next step. The Minister will also wish to engage with Executive colleagues. He has done that already, and he plans to bring a paper to the Executive. We will need to consider all relevant factors, but, as I made very clear to the Committee previously, the DAERA position is that we must always work within the law. That is what it really comes down to. It is not possible to say much more about where that takes us until we have the legal advice, because that gets us into the complexities of it, but, again, I am happy to talk through that in answer to questions from members.

I know that Committee members will wish to understand the implications of that for the SPS operational delivery programme on the ground. On that, I reassure the Committee that checks continue, and we will take you through some of the facts on that. DAERA has temporarily rescheduled planned activities for permanent facilities at the ports. Primarily, some of the contractors were getting ready to put some of their kit and machinery onto the sites. That is a temporarily rescheduling of work on the basis that we are seeking legal advice and want to know where we stand. Mark will be happy to talk you through that in more detail in a moment, as necessary.

We wanted to make sure that we have time for the advice to be provided and to properly consider it. We will, of course, keep delivery partners informed as the position develops. It is worth adding that we had been reviewing the scale of any permanent facilities in light of the initial data from the live running of the programme, and you will see what that is in a moment. Frankly, recalling that we had been working to a ridiculous timescale to deliver it, we rebased our programme. We did the contingency arrangements in weeks at the end of a seven-month period and, if you compare that to facilities elsewhere, that is a very short timescale for what we were trying to achieve. I know that the Committee has been very supportive of us on that.

Our best estimate is that, even without the current issues, the permanent facilities would not be completed before the end of March 2022. That is a factor of the volumes, which we will talk about in a moment.

I want to turn to the current position and our experience over the last two months. In doing so, it is important to state that we are running new operational arrangements. We are learning every day from the operation of those arrangements and it is clear that what we are attempting to do is, at the very least, a huge challenge. As I said before, without help from the UK Government and the EU, it is difficult, if not impossible, to see how we can meet that challenge. We have been getting excellent support from our colleagues in our sister Department, DEFRA, and have had a lot of feedback from EU officials, which has also been helpful. Robert will talk about that in a minute.

A number of implications arise as a result of that, and the Chief Veterinary Officer will be happy to talk you through those in a few minutes. First, it is important to look at the scale of what is being done. Before I do that, I want to put on record my gratitude to all the officials in DAERA, who have consistently and continuously done their best to meet the demands that are being put on us in the most challenging of circumstances. Also, any numbers that we use today must be caveated by a recognition that they are based on data from administrative systems in live operation and are not

official statistics. Some changes could be made to them, but they are an important indicator of the volume of work that is being done and of what is required.

The unit that we focus on for analysis is the common health entry document (CHED). You will hear us talking about CHEDs and, sometimes, we talk about export health certificates (EHCs). Those are broadly similar. There are differences and, again, we can talk you through those. From 4 January 2021 to 28 February 2021, some 57,486 freight units travelled through Northern Ireland points of entry from GB ports. On average, a quarter of those were carrying SPS goods. Of those SPS freight units, 71% were retail, so, to give you a sense of it, within SPS, the majority is retail.

From 1 January 2021 to 28 February 2021, some 13,629 documentary checks were completed on those CHEDs by DAERA staff. That is an important figure. That has increased consistently from week 1, when just over 1,114 checks were completed in a week. In the most recent week's figures, the comparable number was 1,938, around 2,000 checks. That demonstrates a very significant improvement in compliance by the industry and, equally, the hard work of the DAERA team, which has been actively helping people who are transporting food into Northern Ireland to comply with the requirements as far as they possibly can. Some 92% of common health entry documents are for products of animal origin, or so-called CHED-P documents.

It is worth saying that the scale of documentary checks is huge by any standards. By way of illustration, our population is under 0.5% of that across the European Union, yet the documentary checks, according to the systems that have been completed so far, would represent one fifth of the equivalent documentation right across the EU. This reflects the fact that we are dealing with a domestic food distribution system, and not bulk movements of international trade commodities. What is clear is that we are handling a burden of work that is stretching us to the limit and which can only get less sustainable as we move beyond the grace periods — again, depending on what happens — particularly those with regard to retail consignments. That is because, if you think about it, that is where the majority of the CHEDs will come from.

There have been some 11,984 identity checks completed to date. As you will remember, identity checks are, basically, where you open up the back of the lorry and make sure that what you are getting matches the documentation that is being sent. This represents around 88% of all documentary checks, and, again, it represents a very substantial increase, with 936 ID checks in week 1 versus 1,734 ID checks in week 8, and it has been higher than that in other weeks. It is worth noting that, again, this increase reflects a better understanding of, and compliance with, the requirements by businesses; an increased use of sea checks at ports in GB, which is something that we were trying to do to improve efficiency; and the implementation of the compliance protocol.

To date, 666 physical checks have been completed, with 10 in week 1, which compares to 137 in week 8. This represents some 4.9% of consignments that are subject to documentary checks. We can draw a number of conclusions from this. The entire portal inspection team has been working extremely hard to complete a great deal of work to assist businesses in navigating their way through these processes. There can be no doubt whatsoever that DAERA's staff are conducting very significant numbers of checks, including documentary, identity and physical checks, and this is within the context of the pandemic. The demand is huge and it is reflected in the fact that we, in Northern Ireland, process documentation on a scale that is larger than all other entire countries across the European Union. That is according to the traces system that we use.

Furthermore, we are achieving this ahead of a major change when the retail grace period ends. There will be a huge increase in demand, which will build on the current levels, and that will not be sustainable with the staff and resources that are currently available to DAERA.

In addition, given the projected increase in workload, it is difficult to see how, all things being equal, we could even source the number of professionals that would be needed to implement the CHED certification by supermarkets, which is based on the current model. However, we have made very significant progress, and we have worked closely with industry to mitigate some of the issues. To be fair, you have probably heard that directly from industry before. For example, there has been close working with groupage companies to trial new processes, and this has proved to be very successful — not perfect — in the context that we are operating in.

All of this leads us back to the need for further help and support from the EU and the UK Government, and this maybe gives a bit of evidence as to why that is the case. We are in very regular contact with our counterparts in DEFRA, and they are aware of the challenge. They are taking forward an additional assistance scheme with retail businesses, which is with a view to automating a lot more of

the assurance processes in GB. While the automation will be an important factor in the ability to manage the demand, for that approach to be genuinely useful, there will be agreement with the EU that assurances can be provided through means other than paper documentation being entered onto IT systems. It is only through the substantial investment in IT and streamlining processes that we can ever hope to meet the demands that are being placed on us. To be fair, if we can get this to work, it can actually have benefits beyond Northern Ireland, I think, for other parts of the EU.

With regard to grace periods, as I mentioned above, DAERA is implementing and preparing for the end of several deadlines, which is subject to discussions. As you know, all of this is live. The requirement for export health certificates on the import of prohibited and restricted goods, which happened on 22 February 2021; the ban on prohibited and restricted goods from GB to Northern Ireland will take effect on 30 June 2021, and the requirement for EHCs for retailers will take effect on 31 March 2021. You will have seen yesterday's announcement on that. You will have seen the announcement by the DEFRA Secretary of State, George Eustice, on a series of further temporary operational steps to allow more time for businesses to adapt to and implement the new requirements. The idea is to move towards phased compliance with full certification obligations for all traders, but over a longer period.

In conclusion, I hope that this information clarifies the massive tasks that our colleagues in DAERA's veterinary and animal health services, who are supported by people across the Department, have taken on. In doing so, we have learned a huge amount about the scale and nature of the challenges, which, on the face of it at least, appear to be on a far larger scale than in any other part of the UK or EU. That being the case, there will need to be some form of accommodation to render the task doable as well as a recognition that it is not doable in its present form.

For our part, we have two simple objectives: comply with the law and keep trade flowing. We must always deal with the welfare of our staff as a priority — and that is a top priority — because without that, everything else does not work. Consequently, we will now need to make decisions about how to use a finite resource to achieve the best possible outcome within those two imperatives, and that is really where we are. Robert will be happy to talk us through that.

On that note, Chair, we are happy to take any questions.

The Chairperson (Mr McAleer): Thank you, Denis, and thank you very much for appearing before the Committee at such short notice to brief us on this.

You say that you are seeking legal advice on the request that was made to you in relation to the ports decision. Am I right in saying that the Minister made that decision without seeking legal advice from the Departmental Solicitor's Office (DSO), yourselves or the Attorney General?

Dr McMahan: I should say, at this point, that the Department has received a pre-action protocol letter in relation to the Minister's decisions. That is the first step to a judicial review. On that basis, I cannot discuss the letter or whether it should have been sent, and I cannot really talk about issues around that because I do not want to prejudice the processes that are going forward. I was advised by our departmental solicitors that it would be improper for me to talk about the details around that in front of the Committee at this time.

As you know, we are always very happy to talk about how decisions are made and what happened and to give detail. In this instance, I am afraid that the process means that I have to keep focused on the implications of where we are.

If it is any help, I can tell you, because it is not about the letters themselves, that we have two pieces of legal advice requested. One is how we deal with this in relation to the ports, and the other one is in relation to charging. We have the charging advice. We would have been taking advice on charging anyway, because there are some fundamental questions that we need to sort out. However, I am really restricted in what I can say about the letters because of the legal processes.

The Chairperson (Mr McAleer): I am just trying to get my head around this. Last Thursday, we got a written briefing from the Department, which stated that some of the implementation issues had been overcome and almost 6,000 CHEDs were issued up until the middle of February. Inside 24 hours, the halt order was made. Were you and the top team aware that the Minister was going to make that decision, or did you, like me and the Committee, find out from the press?

Dr McMahon: There are two elements to the answer. The first is that no, I was not aware that the Minister was going to write until he told me that he was going to write on the Friday. The letters came subsequently.

The Minister raised the issue of charging previously, at a meeting on 16 February, and, at that point, he instructed me to stop work to develop charging. That was not made public at that stage because I simply said, "I'm going to have to seek legal advice before I know whether I can accept that instruction". Therefore, we were seeking legal advice on that anyway.

The charging issue is slightly more complicated. There are legal issues that we need to work through on charging, so we were going to do that anyway. That was not changing anything that we were doing. In terms of the two letters that subsequently came, no, I did not know about those until lunchtime on the Friday, when the Minister called me to inform me that he would be writing to me.

The Chairperson (Mr McAleer): Finally, before I move around the room to other members, we have established that the decision has had no operational impact on the checks being carried out. The Minister said that, because of the uncertainties, he was revoking the decision to move ahead with the ports. Back on, I believe, 7 October, Minister Poots signed off on the contractors, and contracts were awarded to carry out this work. Obviously, the contractors had mobilised. What lack of clarity is there now that was not there on 7 October? Minister Poots felt that it was possible to proceed in October, and that was before the UK-EU agreement. What lack of clarity is there now that was not there in October? What is the implication for the contractors who were awarded the contract and had begun to mobilise? What are the liabilities as well, for the project slipping? We understood that the project was to be completed by June or July 2021. From your comments, that seems to have slipped now by nine months.

Dr McMahon: There are a number of points there. I will not comment on why; partly because it is a matter for the Minister to explain why he decided to take the action that he took. I cannot comment on any of that any further. Stepping back from the political aspects of this, there are some changes to the programme as a result of what we found out. First, around the volume of materials coming through, we now have two months of data. To be fair, the figures suggest that nobody has ever tried anything like what we are trying to do. We found out a lot during the first two months. Remember, we are not doing checks on the retail side of things, which is the vast majority of the produce coming through.

Secondly, with regard to the nine-month delay, it is probably worth just taking a step back and thinking about how we got to where we did. The nearest comparison that we have is Dublin. I have been talking to my colleagues in Dublin who were working on this at the time. They said that it took a full three years to get this up and running. We did not even have a basic line to start the programme until after the Command Paper went out on 20 May 2020. After that, the programme started. We basically had seven months to get everything in place, including the IT, the people and the facilities. It then became clear that we were not going to be ready in time for 1 January. That was not really a big surprise, but was made even more difficult because, remember, decisions were happening right up until 1 January, coming out of the negotiations.

We had a lot of uncertainty before that, and then we had a situation where it was clear that the first thing that we needed to do was review this to make sure that what we were building was the right thing. There is no point in building something that has too many or too few bays, particularly too few, because if we have too few, that leads to problems with physical checks. Any normal programme at all requires that proper scrutiny. We found that we were going to have to review all of this. We have done that; we have been reviewing with the contractors. We have not completed the process yet. We put all our efforts into contingency arrangements, and that took seven weeks. Again, Mark can talk you through this in more detail. Once we got through the contingency arrangements and got things up and running — frankly, a small miracle based on what we were facing — we had to time to say, "OK, let us reflect on this and look at what the numbers are telling us." I have just told you exactly what the numbers are telling us and they are very significant. I understand that this is contested space. There is a lot of political interest in the process, for various reasons, but, stepping back from all of that, there is some boring, administrative programme management that needs to go into it. The Committee will be aware that we do gateway reviews, for example. We have therefore done all of that. We have stuck with doing that. One must remember that this is a £50 million project, so the idea that we are going to turn everything towards the contingency arrangements for seven weeks and then suddenly switch and say, "We're now going to have a six-month programme to spend a further £45 million" is not achievable. We would have been coming back to the Committee anyway to talk about that, but it is now framed in the context of the Minister's announcements.

The Chairperson (Mr McAleer): Thank you, Denis. I am going to move around the room. A few members want to ask questions.

Mr McGlone: Denis, thanks very much for coming along today. I realise that you have been landed with one. I will take you back. You are the guy at the front: the person responsible for the operational matters. I will put the political stuff to the side. On the operational matters, you have asked for legal advice around charging. Will you give us some detail on the specifics of what you have sought legal advice on about operations stopping?

Dr McMahon: I have sought legal advice on just the Minister's letters.

Mr McGlone: The Minister's letters?

Dr McMahon: The Minister's letters to the other 26 member states, with the instruction.

Mr McGlone: To be clear, you have sought legal advice on the Minister's instruction to stop operations. Is that it?

Dr McMahon: There are two elements. There were two letters: one on charging and one on the portal facilities.

Mr McGlone: They were specifically about the portal facilities and charging. That is all that you have sought legal advice on.

Dr McMahon: Yes. When you say, "all", within the charging element, for example, we are looking for the full breadth of advice. We were looking at the charging issue and would have been seeking legal advice on that, so some of the advice that we would have been looking for earlier will be incorporated into that. There were questions to be answered about the charging, taking the politics and the Minister's decisions out of it. We would have been doing that anyway. To some extent, all of that advice is coming in together, but, yes, that is specifically what we have sought advice on.

Mr McGlone: Just the stopping and the charging.

Dr McMahon: The two instructions.

Mr McGlone: The two instructions, on stopping and charging.

You mentioned the contracts, and the Chair touched on them. Within that, you mentioned multiple contracts. I was surprised, and that is why I am asking about this. It would be helpful to hear how many contracts there are. Leading on from that, I expect to hear that you have sought legal advice around liabilities and potential breaches of contract that could exist as a consequence of an instruction to stop. Some of us have been here before. I used to sit on the Public Accounts Committee (PAC), where I heard about such things. We have seen the implications for the A6, where additional costs have been added to schemes. Have you sought legal advice on that aspect yet?

Dr McMahon: I do not think that it would be appropriate for me to start talking about the detailed legal advice. I have gone as far as I can. I have said that I am seeking legal advice. We will be looking at all aspects of the outcome of that legal advice. I am required under 'Managing Public Money Northern Ireland' (MPMNI) to be aware of and, in fact, ensure value for money in the Department. If there is an issue around value for money, accounting officers can seek a direction if they do not agree with what a Minister is asking them to do. In some cases, as we have talked about previously, it is not possible to seek a direction, because what is being asked to be done is not legal. I therefore cannot really go into any more detail other than what I have said. I am reassuring you, however, that we have sought legal advice, and we will ensure that we have legal advice on all the implications that come out of this. At this stage, it is simply not possible to talk in more detail about that advice.

Mr McGlone: To be clear, I am not asking for the advice.

Dr McMahon: Yes.

Mr McGlone: You are an accounting officer, and you have been on the block for long enough now. I want to be reassured that advice has been sought or is going to be sought to protect the contractual aspects of the scheme.

Dr McMahon: I can absolutely assure you that we will be very clear about the advice on the contractual issues. We will be very clear about that before we take any action.

Mr McGlone: Is that a yes?

Dr McMahon: Yes.

Mr McGlone: You have sought advice on that?

Dr McMahon: No, you asked, "Have you sought advice or will you seek advice?".

Mr McGlone: Which is it? Have you sought advice or will you seek advice?

Dr McMahon: I am not going to talk about the detail of what advice I have sought. It is very simple. Let me put this away. We have sought advice on the decisions. We have sought advice on the breadth of the decisions that have been taken. We are seeking advice on all the implications of that. That is as far as I can go.

Mr McGlone: You are currently seeking —.

Dr McMahon: Any implications arising from that, be they contractual or anything else, will, of course, be covered in the advice that we are seeking and that we will seek.

Mr McGlone: Denis, I am not being obtuse. All I want to know is whether it is a yes or a no.

Dr McMahon: I am not going to go into detail on the advice that we have sought. That is legally privileged. I am not going to go into the advice.

Mr McGlone: Denis, I am not asking you for the detail.

Dr McMahon: Sorry, but you are asking. You are asking me to go beyond. Look, I have said to you that we are seeking legal advice. I have said to you that we will be looking at all aspects of this, including the contractual aspects. I have given you an assurance that we will be doing that, which is what you are seeking. What I am saying to you is that there is a range of issues that will no doubt require us to have further discussions with our lawyers as we go through the process. It is therefore not possible for me to tell you about that. For example, there could be other aspects on which we may need legal advice. I am not going to go into all of that. I am assuring you that we will be looking at all aspects of this, and we will get legal advice accordingly. The questions we have asked to date are broad and will cover all the issues.

Mr McGlone: No. To be clear, Denis, I am not looking for the details of the advice either sought or given. All that I want is to be assured that legal advice is on your radar and that what I asked is being done.

Dr McMahon: It is. Absolutely.

Mr McGlone: How many contracts are there for Larne?

Dr McMahon: Mark, do you want to talk about that in more detail?

Mr Mark Livingstone (Department of Agriculture, Environment and Rural Affairs): Morning, Patsy. Morning, Denis. Morning, Chair. There are contracts currently awarded for each of the four point-of-entry sites: Larne, Warrenpoint, Foyle and Belfast. We are working closely with our colleagues in the Central Procurement Directorate (CPD) to make sure that those contracts are carefully managed, not only through this period but over the whole period of the programme and the

implementation of the project. We are in daily contact about each of the contracts through the project management system, and we are keeping CPD up to date as we go forward. I hope that that is helpful.

Mr McGlone: OK. Thank you. Chair, I ask for your forbearance. I have one more question. Any delay equals additional cost, because boots on site, whether working or not, are a cost to the contractor. Have you sought advice on potential additional costs that could lead to for the scheme?

Dr McMahon: One of the big issues that we need to be able to determine at this stage is whether we act on the instruction. That is the first step. After that, we can look at what the implications are.

Value for money will be much broader than any short-term issue around our legal advice, and a whole range of factors will need to be taken into account. We will take all those factors into account, one being any delays that result. In a matter of days, we will be getting legal advice. We will get that advice together. The idea is that the Minister will want to bring it back to the Executive. The bigger reassurance is that there is a whole range of value-for-money issues that will need to be dealt with. We will deal with them, but there are other issues that need to be addressed first.

Mr McGlone: I want to clarify something that you raised, Denis. I have every confidence that you will get professional and good legal advice. Will the legal advice that you get be the advice that the Minister is obligated to bring to the Executive?

Dr McMahon: The Minister will put a paper to the Executive that will be informed by that legal advice.

Mr McGlone: OK. Right. Thanks very much.

Mr McGuigan: Denis, I am conscious that this is the second time in a few weeks that you have had to come before the Committee to attempt to explain unilateral and, I suppose, unsettling political decisions made by two different DUP Ministers in the Department. It will not be lost on people that the first time that you appeared before us was to address the safety and security of staff following a decision taken by then Minister Poots that went against the PSNI's assessment. We know the result of that decision.

You said that the first duty of the Department is to act within the law. We now have a second DUP Minister making a decision that may be, and probably is, outside the law, and he did not seek legal opinion first. We therefore have had two DUP Ministers interfering politically by taking very important decisions that are clearly unsettling politics, business and trade interests in the North.

I do not intend to push you on the legal opinion, but I make those clear points at the outset. That is not the way in which Ministers should be doing their business. It is totally at odds with how they should. The two Ministers, current and former, and the DUP need to realise that those decisions are having wider societal impacts: heightening tensions and unsettling business across the North that want to see the protocol work.

Denis, you said that there has been no operational impact so far. I am seeking a wee bit more clarity on that. What has been the impact of the two letters that you received from the Minister on the current implementation of the protocol, on the work that needs to continue at the ports, and on implications for future work? For example, there has been little conversation about the halting of staff recruitment. As we go forward, staff will be key to implementing all of this. Are there any real-time implications for now and into the future? Moreover, what are the time frames for what will happen next? How soon do you expect to receive the legal advice? How soon will we have some certainty? How soon can we move forward to the next phase and bring back some certainty?

Dr McMahon: I will let Robert talk about the staffing implications more generally. Before I do, it is worth saying that a number of things drive us. Of course we have to comply with the law. We also have to work under the direction and control of Ministers. That is something that we have to bear in mind and try to navigate, but we always have to do so within the law.

I do not think that I said that there were no implications. I said that, at this stage, there were not major implications. The main thing, which I mentioned earlier, is that the contractors had been due to put in some facilities — Portakabins and such things — by way of preparation on-site. That has been held off until next week. We are talking about a matter of days.

Part of the problem is that a spotlight has been shone on this because it is now a politically controversial issue, although, to be fair, it always was politically controversial. With a programme on the sort of scale that we are talking about, a delay of a day or a week here and there is built in, because you know that things will go wrong. Today, is there a fundamental problem with the programme? No. Ironically, had the instructions not happened, there are things that we would have been doing anyway that we need to do. We need to make sure that staff at the facilities are appropriately skilled. We needed to know what would come out of the discussions between the UK and the EU to help us manage the demand a wee bit. Even doing things such as finding out whether the seal checks are working makes a huge difference, because doing that means that we are not having to do identity checks in Belfast or Larne. All those things are therefore very significant, and normally we would be looking at them as part of a boring, bureaucratic process, but unfortunately, as I say, there is so much interest in the ports that they have created attention.

Robert can talk more about this, but there is an issue anyway with staff. We have an issue with getting enough staff. Robert, do you want to say a wee bit more about that, if you are there? Robert? I am on my own by the looks of things.

Mr Robert Huey (Department of Agriculture, Environment and Rural Affairs): Apologies. My connection has been dropping out.

I previously told the Committee that I would need 25 vets and 75 portal inspectors. Those were not guesstimates of what we thought we might need. What I have on the front line is 12 vets and 45 or 46 portal inspectors. Then, of course, there are the council staff, who are carrying out their checks. All of us have the same issue, which is that we do not have enough staff. The work that the staff are doing to deliver what they are delivering is nothing short of miraculous. That is helped by the way in which we are doing things. The checking of documents is being done electronically. I have 24 admin staff doing the routine business of the documentary check, while the identity checks are being done by agency staff at GB ports. That is why we are achieving the figures that we are.

Each CHED has to be signed off by a vet online, and that takes an enormous amount of time. We are looking at other ways in which we can do that so that we can release vets to be on the portal front line. The physical checks that we do have to be overseen directly by veterinary inspectors, while environmental health officers (EHOs) oversee the local authority checks. Miraculously, last week, we achieved 40% of the number that we should have done, although the percentage is down a little bit this week. That is the bit that suffers. During the two weeks that the staff were on fewer duties because of the security threat, as you can see, the percentage of physical checks done went down to 12%, 13% or 14%.

The Minister's instruction has had an effect on staff morale, because people had hoped that the cavalry were coming over the hill. They are now concerned that, if it continues for any length of time, the halt will cause significant difficulties for filling posts. That is part of what I need clarity on quite quickly. We have a machine that is delivering us more staff. I have 20-odd more vets to interview before getting them in. A delay of a few days, as Denis said, is not an issue, but if that delay goes on for weeks or months, I will have real difficulties. Right across the piece, including the local authorities — I think that I can speak for them — we are having difficulties with staff numbers. It is getting to the stage now at which I need backfill in order to let staff have leave. We are moving from what has been an almost emergency position since 1 January to business as usual. We really do think that it is now starting to feel like business as usual. When it is business as usual, people need breaks. Remember that it is shift work, which denatures people anyway. I am not downplaying in any way the challenges that we have ahead of us. So far, we are coping. We are doing an extraordinary job. I hope that the work that my staff are doing is appreciated across business and in the community in general.

Mr McGuigan: It is certainly appreciated by the members of the Committee, Robert. I hope that you pass that on.

Denis, will you outline the timescales for the way forward for the next while as a result of the decision?

Dr McMahon: We have already received some legal advice on the charging issue. As I said, it is tied up with the fact that there are bigger issues about charging. We are in the process of developing that advice, as it is not as clear-cut. I am working up submissions for the Minister on that.

We are still waiting for the advice on the ports. We had meetings with DSO and our legal advisers to discuss that, but we are waiting for that advice. I am hopeful that, once we have it, we will be in a

position to put together a paper that the Minister could then use for the Executive meeting next week. That is my intention. As I said, it depends on what the legal advice states. That is why I was trying to say earlier that we need to see what we get back first. We can then think about how to build that into appropriate advice and an appropriate paper.

Mr McGuigan: I said that I was not going to push you on the legal advice, but there are a couple of separate things here. Legal advice is needed on the letter that was sent to you, but legal advice is probably also required on whether the Minister could make the decision in the first instance without consulting Executive colleagues. Is that anything that you are involved in, or is that a separate issue for the Executive to take forward?

Dr McMahon: I think that that takes us into the proceedings that I talked about earlier. I do not think that I can talk about it.

Mr McGuigan: OK.

When you were talking about advice, it struck me that, the previous time that you were here, you talked about Minister Poots, following conversations with DUP colleagues, pulling staff off. Perhaps you are not aware of whom he spoke to or took advice from, if it was not from senior civil servants or the legal profession, but it is not lost on people that the DUP, at a senior level, met loyalist groupings a few days before that decision was made.

Dr McMahon: I am sorry, but I cannot comment on that any further.

Mr Blair: I have a number of questions. I, too, am aware that this is the second time in a month that officials have had to come before us at very short notice following unilateral action taken by a Minister. I am also very aware that the actions that were taken on both occasions have drawn further attention to staff at ports, who, as we have heard again today, are already under significant pressure.

We have established that there was no consultation by the Minister with the Executive, the Assembly or the Committee; that there was not extensive consultation with officials; and that legal advice was not sought prior to the announcement. I want to ask for some clarification about conversations that may or may not have taken place between the first mention of this by the Minister to the permanent secretary on 16 February and the eventual decision being made on 26 February. There is a 10-day gap there when conversations could have taken place. Could we have it clarified that those did not take place until the announcement was made?

I will go through all my questions, Chair. This is my second question. Some of us have been flagging up for quite some time — it can be counted in years — the complications that could arise out of a UK decision to go for a harder form of Brexit, and we all know who backed that harder form of Brexit in Northern Ireland. What progress has been made in trying to alleviate some of the issues and to reach some kind of UK-EU veterinary agreement? To what level are DAERA officials and, of course, the Minister involved in that to try to achieve it? That is directly relevant to some of the problems that have arisen and led to decisions taken.

I asked my next question in the Chamber, but I did not get clarification from the Minister, other than on some constituency-related issues. We have not covered this area, at all. Was any consultation carried out before decisions were made on stopping work at the ports or bringing staff out of the ports with the relevant sector representative organisations, such as the Business Brexit Working Group, the Retail Consortium, Retail NI or others? I am keen to know that. Those representative organisations should be feeding into the decisions, and I want clarification on whether they do.

The other thing that I want to know is this: was there any consultation with DAERA before the UK Government's announcement yesterday of their unilateral extension of the grace periods?

Dr McMahon: OK. There were four questions there. I will have a go at a couple of them.

First, when the Minister first raised the issue of charging on 12 February, he said that he was instructing us to stop development. I said that we would obviously get advice on the development of charging proposals. The idea there was really to see where that would take us. As I keep saying, the charging issue is different and more complicated. It is not quite the same issue as whether you apply checks, and there are some really important points that we need to cover. For example, taking the politics out of it, if we put a charging regime in place — we were in that place anyway — we would

have to consult very broadly with all the business groups. Frankly, if we did not do that, we would be very open to legal challenge, but we would do that anyway, because that is how we normally do business. As a Department, we have worked in a very consultative way generally throughout the recent pandemic and on how we have tackled the Brexit issues.

Off the top of my head, I cannot remember whether I mentioned it again. I probably would have said to the Minister at our normal regular meetings, "By the way, we are still seeking legal advice". For me, that was absolutely fine. The Minister expressed a clear view on what he wanted, and we were getting legal advice on that, as we would have done anyway as part of a wider piece. It is quite possible that I would have said to the Minister, in the margins, that I was still getting legal advice. I do not know, but I will happily check the records to see whether there are any references to it in the minutes or whatever. That is the answer to the best of my knowledge. That work was progressing.

One of the things about the 10 days is that, when you seek legal advice or advice on any issue, it is really important to inform that advice. Anybody who has tried to read the official controls regulation legislation, and this is the point when Robert will start waving it around — there he is; I knew that he would do that — will know that you would need legal advice just to understand it. There is something about looking at all the issues. We would have to look at equality and human rights issues, and, before we would start charging, we would have to look at regulatory impact assessments. It is all those things. You are absolutely right in saying that that would need to involve businesses. In a way, that was happening.

The first that I learned about the Minister planning to write to me, to my recollection anyway, was when he phoned me on the lunchtime and said, "I just wanted to phone you to let you know that I'm sending two letters to you on those two issues". That is the background, and that was the first that I saw of the portal instruction on the actual facilities.

I will let Robert talk about your second question. I think that I have answered questions one and three. There was no departmental consultation process on those decisions that I am aware of. Having said that, I have no doubt that the Minister will, as all Ministers do, take all the evidence that he is seeing around him, as you do yourselves, and use that in his decision-making.

Do you want to say something about the UK-EU vet agreement, Robert, and the discussions with DEFRA around the announcement yesterday?

Mr Huey: I meet the Chief Veterinary Officer (CVO) UK, Commission officials and veterinary colleagues [*Inaudible*] weekly. The primary purpose of that meeting is for the EU inspectors, who are with us on a daily and hourly basis, to download to me things that they have observed and things that we could improve. That has been going on every week since 1 January.

On the verges of that meeting, the three of us — myself, the CVO UK and the EU's chief vet — have discussions on clarification about issues that are arising, such as movement of goods from the EU into GB after 1 April, down to the detail of what checks and certification will be needed. There is no discussion on a veterinary agreement, because that cannot happen until we have political agreement that that should happen. There has been no discussion about a veterinary agreement at those meetings or anywhere else, just to be clear.

On the announcement yesterday, I was involved in initial meetings with DEFRA to scope out what it might look like. There were, at that time, a couple of think papers — I think that we would call them that rather than them being anything like what actually came out at the end. On the night before they were released, I think that Mark Livingstone and Brian Dooher were given sight of them after closing time the night before. The first that I saw of them was just before they were made public. The answer to your question is that there was no meaningful consultation with us or involvement. It was a DEFRA paper.

Mr Blair: It would appear that there was something like 24 hours' notice before the UK Government announcement.

Dr McMahon: Until it was announced, it was not announced. To be fair, we work very closely with DEFRA colleagues, and they are keen to work closely with us, because they know that, whatever they are thinking of, they want to run it past us to see, from an operational point of view, whether it would make sense on the ground. My recollection of it is that we did not know. I cannot remember if we knew even that morning.

I think that we had been told the day before that it was likely to happen, and then it did. These things happen. It is one of the challenges. We want to do joined-up government in a way in which we are able to influence wherever we can and as far as we possibly can for the benefit of Northern Ireland. The other side of that is that it is always difficult because we are then being asked to keep confidences. It is something that we have to be careful of as well because quite often something might be run past us and never see the light of day.

Mr Blair: Can I try again to get a better feel of how much ministerial/official DAERA feed-in there is to the discussion about a UK-EU veterinary agreement? I understand that it will have to be an agreement of a political nature between the UK and the EU, but, given the direct relevance of Northern Ireland in relation to points of entry in ports, I think that information will be sought or offered. I am trying to clarify how much information and detail with regard to the Northern Ireland situation is being fed to that UK-EU conversation around a veterinary agreement.

Mr Huey: As far as I know, there is no discussion, John, but, when there is, I will be all over the top of it. Do not worry. The point that you make is a good one. The agreement will be between the UK and the EU, so it will be about flexibilities around that and making movement of goods from GB to the EU, including Ireland, of course, easier. It will do all that. It will, of course, help us, but it will be to help freedom of movement of goods between GB — the UK, the third country — and the EU in general. First, the discussions have not started yet, and, when they do start, I will be all over it. Do not worry.

Mr Blair: I appreciate that. Thank you both.

Mr Irwin: I thank Denis, Robert, Norman and Mark for coming along this morning. There have been a few political speeches here, and I suppose that I should make one too. It will not go unnoticed by many across Northern Ireland that those who supported the current protocol have put up barriers to trade between Northern Ireland and the UK and between the UK and Northern Ireland. That has ended up with many businesses not supplying Northern Ireland. Indeed, the delivery of hundreds of thousands of trees to Northern Ireland had to be cancelled and could not come because of the protocol. Apart from that, I believe that the Minister made a reasonable decision, given what he was faced with. We have a serious legal challenge to the current protocol. The permanent structures will cost a lot of money and could possibly be a white elephant if, for instance, the legal challenge in relation to unfettered access to trade between the UK and Northern Ireland were successful.

I have a couple of questions for Denis. What is the proposed cost of the customs posts? I will let you answer that question and will then ask my second one.

Dr McMahon: Mark may have the most up-to-date figures to give you a more precise answer, but it is in the order of £45 million.

Mr Livingstone: The current costs, William, are £38.2 million for the upfront capital expenditure — those are the full bill costs — and £6.1 million that is required for revenue costs, which includes staffing across the Northern Ireland points of entry, staff programme implementation costs and systems and IT. I remind you that about £5 million was achieved for spending on the contingency costs as well. We will [*Inaudible*] those costs, obviously, as we look to rebase the programme, as we look towards building the full infrastructure.

Dr McMahon: To add to that, William, of course, that is where the numbers are so important. What we have learned will be fed into that process.

Mr Irwin: For me, spending £45 million in such uncertainty would be daft, and I think that the Minister has made the right decision in the current situation.

Denis, you said that the current model was a challenge. That could mean a lot, but we are now in the grace period, and the current model is a challenge. At the end of the grace period, can you see the current model being workable?

Dr McMahon: I will pass on to Robert to give us a bit more detail on that. I suppose that, at the minute, the numbers do tell a story. You can see that about 2,000 documentary checks a week are happening. There are a lot of different factors, but if you add to that all of the potential certificates that would be required if you were moving to retailers, that is a very significant increase. Robert, do you want to talk in a bit more detail about that?

Mr Huey: These are estimated figures. At the moment, about 1,350 CHED-Ps are coming in for retail in supermarkets. We know that there are between six and 10 export health certificates, six to 10 plant certificates and 50 catch certificates for each of the consignments that come through Northern Ireland ports' points of entry to go to supermarkets, such as Marks and Spencer, in the South. Those are consignments that are going to a supermarket in the South, so it is likely that it would be the same for a supermarket here. That would uplift the 1,350 CHED checks that are being done at the moment — those single schemes for temporary agri-food movements to Northern Ireland (STAMNI) checks that are being done — to around 20,000 to 30,000. That is a broad, estimated figure.

With the staff and facilities that I have currently, I would not be doing physical checks on most of those. I would do a risk assessment and say that the materials that were coming in were not a risk to the public health, animal health or plant health of Northern Ireland. That is a huge challenge. That is approaching the same number of CHED-P checks that are done for the entire European Union. I have spoken about that to the Commission in purely technical, not political, terms. I told the Commission what I am being asked to do by the Northern Ireland protocol with my 12 vets. It is not going to work. That is where we find ourselves. If the extension of the grace period occurs, it will be welcomed, but it is not the solution. If we get the extra time, we need to use it to work our way towards a better solution. We are working in interim facilities. They are superb, but they are tents. They are refurbished old buildings in Larne. They are not a long-term solution. Going back to the welfare of my staff, for how many more winters can I ask them to work in those sorts of facilities?

The Deputy Chairperson (Mr McGuigan): Rosemary, you are next. Rosemary, are you coming in? We will come back to Rosemary and go to Harry.

Mrs Barton: Hello, Philip.

The Deputy Chairperson (Mr McGuigan): Rosemary, you have got in just in time.

Mrs Barton: I want to go back to some of the figures that were mentioned at the beginning in relation to the checks etc. I think that it was the permanent secretary who said that we had a population of 0.5% of the EU but that we are doing checks equivalent to what would be done if we had a population of a fifth of the EU. Am I right? Can you explain and expand on that?

Dr McMahon: I would not have tried to say it quite like that. I used to be a statistician, and I would be struck off if I tried to stretch it too far.

Mrs Barton: *[Inaudible.]*

Dr McMahon: The point is that we are a very small population. As Robert said, we do not have the numbers of vets and staff relative to a population of a fifth of Europe. There is, therefore, a serious point there. As Robert said, we are, according to the trade control and expert system (TRACES) — the EU system that we use — already doing more than most countries, if not all countries, in Europe.

Mrs Barton: To follow on from what William said, if the checking of goods continues at this intensive rate, there are going to be huge problems in maintaining staff and continuing, if staff are not getting holidays and breaks and there is a shortage of staff.

Mr Huey: That is absolutely right, Rosemary. Irrespective of all the things that are going on, now that we have a couple of months of data and we understand the size of the work that we have in front of us, we are getting to a better place where we can try to estimate properly the number of staff that we need. That process is going on. We then have to get them. I have a process in place at the moment. Another 20 vets are ready for interview. I am doing a continuous recruitment of vets.

On portal staff, we will look at what we have. We will probably move some field staff in to the port if we can. There is a difficulty with moving staff to do shift work from normal field work because you are changing their conditions; really, you have to seek volunteers. I am very pleased that volunteers have come forward. We will keep working at that. The local authority has a similar problem with trying to recruit environmental health officers. It is a significant difficulty; I will not try to pretend that it is anything other than that.

Mrs Barton: My second question is to Robert. I was a little bit disappointed to learn that no conversation has yet taken place about inspections and veterinary agreements. Am I to read into that

that our farmers will, unfortunately, be disadvantaged over the summertime, especially in relation to bringing livestock across to Britain to sell and then buying livestock and returning it to Northern Ireland?

Mr Huey: All that I have been talking to the Commission about so far is clarification of our understanding of current regulation and law. It has been flexible where it can, within what is written in law already, in helping me with individual checks and commodities and in defining what the law actually means. There has been nothing on the detail around the EHCs for sheep and cattle livestock coming in from GB. Those certificates are laid down in law; they are legal documents and are published as such. Before the UK CVO can talk to the EU about that, there has to be some political cover. Currently, there is not; there is no political agreement that those things should be discussed. That is beyond my pay grade.

Mrs Barton: In other words, that will continue for some time. Is it the same in relation to the bringing of pets on holiday and bringing them back?

Mr Huey: That is correct. The position on pets at the moment is that there has been no agreement at all. The CVO for Northern Ireland made a unilateral decision not to enforce. The law remains the law. If I were asked officially whether people should obey the law, I would say that they should and that they should get their animal vaccinated, but I am not currently going to enforce it. That is going to be extended until 1 July, but I am still looking at it. There are discussions going on between the Cabinet Office, the Department of the Taoiseach, DEFRA and the Department of Agriculture, Food and the Marine (DAFM) around the technical details to see whether some accommodation can be found. That is a discussion between the two Governments rather than one that involves Europe.

Mrs Barton: It is especially relevant for people with assistance dogs coming back and forth.

Mr Huey: It is back to my favourite line, Rosemary: sensitivity and pragmatism.

Mr Harvey: Denis and Robert, you are, obviously, very capable men. You have done a superb job. You have really risen to the occasion. I praise you for that. The scale of your task seems to be unreasonable. I cannot believe that a fifth of the documents to process are for 0.5% of the goods that flow. Rosemary covered that, but maybe another wee point or two will do no harm. What about the digital assistance scheme? Where are we with that?

Dr McMahon: Again, colleagues can give you more detail, Harry. The digital assistance scheme is being led by DEFRA, and we have had a really good working partnership with it. However, it is about more than IT; if it is to work properly, it will need to include a way of providing assurance that it is more efficient than what we have at present. Therefore, automating the current certification process would not really reduce the number of certificates that have to be checked. We are hopeful that that could develop, and some of the thinking behind the announcement yesterday was to try to align with the work on which DEFRA is leading. I do not know whether Robert or Mark want to come in with any more detail on that.

Mr Livingstone: I can supplement that, if that helps, Harry.

Dr McMahon: Yes, Mark.

Mr Livingstone: There are three phases to the work on the digital assistance scheme: the discovery, design and implementation phases. As Denis said, DEFRA is the lead on this, but we are very much interacting with DEFRA because, while the programme starts in GB, it ends in NI. Therefore, I am keen to develop a digital assistance scheme that really helps Robert to minimise the checks as they come into the points of entry at the four ports. DEFRA has completed the discovery phase, which sets out exactly what it wants to achieve. It has worked its way through that with a range of consultants on its side and is about to enter the design phase. That involves working with four or five customer groups across the hauliers, the retailers, the big retailers and the producers, and getting their points of view as to how this may or may not work with them. That process is taking place through a series of workshops from 11 to 18 March, so we can keep you up to date on that. I can write a detailed paper on the digital assistance scheme for the Committee, if it should so wishes.

Mr Harvey: I would appreciate that, so thank you very much. It is great and would also be a help to Robert. Thank you.

Ms Bailey: I thank Denis and his team, as other members have done, for making yourselves available to us today at such short notice, particularly under the circumstances. Every time that you have been with us, you have made it abundantly clear how much pressure you are all working under and how under-resourced you are in your continued efforts to carry out your duties. We can only imagine how much extra pressure you are now under with the current political pressure. I have absolutely no doubt that, as the new Minister took up his post, you briefed him on the challenges that you continue to face. While he has to date been too busy to come and meet the Committee to discuss his priorities, we can now look forward to meeting him to discuss that as dates are being set. Particularly for Robert, his staff and the officials on the ground in the ports, I offer a bit of solidarity, if it is of any help to you at all. The workload and the conditions under which you are absolutely shocking.

I do not want to go into any detail at all on the legal issue and the legal clarity that is being sought. However, in following up on Philip's comment about the issue potentially being cross-cutting with ministerial impacts, is there anything that you can say — I think that you might have answered it, Denis — on whether you believe that this decision was cross-cutting, or is that firmly a legal matter at the minute?

Dr McMahon: I think that that *[Inaudible]* legal proceedings.

Ms Bailey: That is grand. When you get the legal advice, can that be shared with the Committee, or is it privileged?

Dr McMahon: We will use it to inform any briefing for the Committee, but we do not share legal advice because it is legally privileged.

Ms Bailey: On the documentary checks and the lack of clarity that the Minister identified, can any of that be settled with the UK Government, or is it all firmly within the remit of the EU and the Joint Committee? Are they protocol issues, or are they to do with paperwork, trusted traders and HMRC and therefore able to be settled domestically?

Dr McMahon: Most of the issues that we are talking about are not supply issues, although, of course, we do not have enough vets and staff to do what we need to do. If you think about the future, a lot of that comes down to what the demand will be, which is outside our control. For example, the digital assistance scheme, which we were talking about, and the movement assistance scheme are led in GB by DEFRA because that is where the supply is coming from. Within our piece, our job is to make ourselves as efficient as possible to work with our DEFRA colleagues to help them to make the processes in GB as efficient as possible and see where we can take it. Beyond that, it gets into discussions between the UK and the EU, which is where we really need the help.

The Chairperson (Mr McAleer): I ask the witnesses — Denis, Robert and Mark — and members to make sure that the audio on their computers is muted when they are not talking, because there is a bit of feedback. Sorry for cutting you off, Clare.

Ms Bailey: I have two other points, which will hopefully be quick. I am picking up on a growing discussion at different levels that I want to ask you about. Would it be viable for GB ports to take on the responsibility for carrying out all checks at some stage? Has there been any discussion with DEFRA on that? Does the unilateral decision taken by the UK Government to extend the grace period put Northern Ireland at any further risk?

Dr McMahon: I will let Robert answer that, but I suppose the main thing —. Maybe I will just let Robert answer it *[Laughter.]*

Mr Huey: On checks being carried out in GB, my interpretation of the legal position is that the checks are on what is entering the single market, with Northern Ireland having remained in the single market. It is already a big step for the EU to allow me, as a third country CVO — remember, Northern Ireland has left the EU, so I am part of a third country too — to carry out checks on its behalf at what it considers to be a border. To move those checks to outside the single market and carry them out in GB would, even though everything is unusual here, be a step too far. The EU would not be able to consider that. Who knows what will change in the future? At the moment, I cannot see how that would be permitted within the legal framework.

Dr McMahon: The only thing that I would add is that we are absolutely content to look at all options. Frankly, if there were an option that took this responsibility from me, I would not argue too much. Sorry.

Ms Bailey: On the unilateral decision by the UK Government to extend the grace period, is there any feeling or sense among you that that could pose further risks to or have extra implications for NI?

Dr McMahon: DEFRA will have had its own legal advice and worked through that. Obviously, we want to make sure that anything that we are doing is compliant with the law, as we have always done. On a very simple basis, we are in a situation in which, despite the fact that there has been huge activity, we are not, and nor could we be, fully compliant with the official controls regulations (OCR). Apart from anything else, we are developing our compliance, we do not have all the resources we need and, even if we had, there are other factors. What has been done in seven months has been a huge achievement but, at the same time, it was never designed to be fully compliant on day one or even within some months. The big question for the Department is how to cope with those additional volumes. Anything that helps us to control the demand will help us to be more compliant. All we can do is our best to be compliant with the law, and that is what we are doing. Do you want to add anything, Robert?

Mr Huey: Only the typical official reply: it is too early to say.

Dr McMahon: I did not think of that reply.

Ms Bailey: It's the French Revolution one.

Mr M Bradley: I suggest to Denis that the amount of work that he and his officials have done has been incredible, especially in the time frames available to him. They deserve our grateful thanks for the remarkable amount of work that has already taken place.

From a layman's point of view, the protocol is an unnecessary burden on goods coming into Northern Ireland from GB, and it creates uncertainty and internal barriers to trade. William mentioned that some companies have already stopped trading with NI. Denis, you provided an update on the number of checks carried out in Northern Ireland compared with those carried out in EU member states. Why is it more difficult to trade between GB and Northern Ireland than any other non-EU country? Is the current EU system checking designed for complex internal trade, or have the checks been overly complicated by the EU as a punishment for the UK leaving the EU?

Dr McMahon: All I can say is that, clearly, the model was originally designed for inspections at borders, and this is a very different situation. We are in an internal market with huge freedom for trade, and that is why the checks are a huge challenge. Robert, do you want to add anything on the practicalities of that?

Mr Huey: It is exactly that. The system was built for single consignments for international trade arriving at the edge of the European Union, not for what is basically checks being strung across a motorway. It is not unlike checks being put across the M6 in the middle of England and expecting everything to flow nicely after that. This applies to goods coming to Northern Ireland for both retail and manufacturing through supply chains that have been established over a very long period. The supply chains have largely held up and have not changed, and they are the same. The EU expected the supply chains to change. I suggest that Asda has over 600 supermarkets, and it is not going to change its supply chains for 16 supermarkets in Northern Ireland. The crux of our difficulty is that the supply chains for retail and manufacturing are what normally occurs within a country and member state, and we are trying to carry out checks using a system that was not designed for that.

Mr M Bradley: Thank you, Robert and Denis. It highlights to me the fact that the protocol was badly designed and not designed to work. I will stick with the protocol. If Northern Ireland moved to the full implementation of the protocol, what will be the increase in checks that will need to be carried out at our ports? When can we expect the issues with plants, animals, seed potatoes and plants with soil to be resolved? What is the cost implication to the Department for the extra staff to do the checks at our ports at this crucial time for the agri-food sector? We are coming into the growing season.

Dr McMahon: Robert, do you want to build on some of your earlier answers with that one?

Mr Huey: Earlier, I talked about the increase, particularly of CHED-P checks, from 1,300 or so up to 20,000 or 30,000. It is that level of checks, both documentary and identity, that would need to be done for those consignments, which, because of the flexibilities that we have done, if we staffed that up, we probably could do. We will use other flexibilities to avoid having to do physical checks on those goods. However, it is a huge challenge and, in my view, does not add much to the protection of the internal single market as far as public health, animal health and plant health are concerned. It is the law. It is what we have to do until other negotiations result in another outcome.

Sorry, Maurice, what was your second point?

Mr M Bradley: What will the cost be to the Department for the extra staff who will be needed to man the checks fully at the ports, especially at this time?

Mr Huey: All those costs are being covered by the Treasury. The resource costs that Mark outlined earlier are covering staff costs. Those will be passed on to Treasury.

Mr M Bradley: OK. Thanks very much, Robert. I have one last question, Chair, if that is all right with you.

The Chairperson (Mr McAleer): Go for it, yes.

Mr M Bradley: Robert, you said that limited checks have been carried out since the start of January. What review mechanism is in place to assess which checks have taken place and what the impact will be on planning for what could be unnecessary permanent buildings at the ports? How do you think that that could impact on what is planned, although the Minister has stopped it at the minute?

Mr Huey: The ones that are furthest below the level at which they should be are the physical checks. Last week, for example, we carried out 137 physical checks. The week before that, it was 206. However, that equates to only 30% or 40% of what we should be doing. That is the biggest concern: having the facilities, people and time to carry out those physical checks, which are the most important ones.

Mr M Bradley: Thanks, Robert and Denis.

The Chairperson (Mr McAleer): Rosemary and William are looking in for short questions. I am conscious that we have to move on to the evidence session with the Climate Change Committee very shortly. Rosemary, go ahead.

Mrs Barton: To follow up on Clare's point about physical checks taking place in ports in Great Britain, we already have something similar here at the moment, although it relates to people. For example, at Dublin Airport and Shannon Airport, people are checked before they go to America. All the checking etc is done there before they land, so that, when they land in America, they can go straight into the US. Therefore, a precedent has already been set.

Dr McMahon: To build on that, it does not really take away from the legal restrictions, but we are already using that approach as much as we can. As I said, there are three levels of checks. There are documentary checks, which are done online, so we are doing those remotely. There are the ID checks, and we are trying, as far as possible, to make those happen in GB through the use of seals. Therefore, we are doing as much of that as we can. I would never try to second-guess Robert, as he knows the official controls regulations inside out. That said, as Robert says, we will look at all options. We are not close-minded. Frankly, even to get to this point, we have had to look at every option that we can. Again, that was part of the reason that we were looking at reviewing what we were doing to see whether we were building the right thing for the right purpose.

Mrs Barton: OK. Thank you.

Mr Irwin: Robert and Denis have both said that implementing the current protocol is a huge challenge. Can they see the current protocol, as it stands, working after the grace period ends?

Dr McMahon: You can see that each of us was fighting to get in to answer that question. You would expect me to give a boring official answer because, to be fair, there are a lot of unknowns in that.

However, sticking very closely to the facts, what we can establish that we are doing a huge number of checks, and, if nothing else were to change between now and the end of the grace period, that could result in a huge increase. We do not have the resources to do everything that we want to do at the minute. Certainly, the resources that are required to carry out that big increase are prohibitive. That is not to say that improvements could not be found.

One thing that I will give credit to is the ability of the business community to work with us and to adapt its processes. We have seen some of that with the haulage companies. If nothing were to change, I think that we would struggle, and I am not sure that we would be able to do the job. That is the honest answer. I am hopeful that, as we have before, we will get help through the UK and the EU working together. Robert, do you want to add anything to that? Does that seem fair to you?

Mr Huey: That is right. It will be very difficult if things remain exactly as they are. I do not believe that they will. We will improve our systems. We will improve our staffing levels. I am hopeful that something will change to make the job more doable. We are not reaching 100% of what we should be doing at the moment. We probably will not then. What we will continue to try to do is the best that we can to comply with our legal requirements.

Mr Irwin: Thank you.

The Chairperson (Mr McAleer): Thank you very much. That was a wide-ranging, detailed briefing, and they were good, detailed answers, as always. Thank you for coming to the Committee at very short notice and answering all the questions in such detail. OK, folks. Good morning to you. We will see you again.