



Northern Ireland
Assembly

Committee for Agriculture, Environment
and Rural Affairs

OFFICIAL REPORT (Hansard)

Withdrawal of DAERA and
Local Authority Staff from Ports:
Department of Agriculture, Environment
and Rural Affairs

15 April 2021

NORTHERN IRELAND ASSEMBLY

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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 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 Denis, Robert and Mark. I invite you to brief the Committee.

Denis, you need to unmute yourself or something because we cannot hear you. *[Long Pause.]* There is something wrong.

Mr Robert Huey (Department of Agriculture, Environment and Rural Affairs): Can I check that you can hear me?

The Chairperson (Mr McAleer): We can hear Robert.

Mr Huey: That is OK. I see the boss panicking, so I have to panic too.

The Chairperson (Mr McAleer): Is there an aspect of the briefing that we could pick up with Robert until Denis resolves the technical difficulties? Is that possible?

Mr Huey: Yes, I am content to answer questions until Denis joins us, scary as that proposal is. Thanks for that, Declan *[Laughter.]*

The Chairperson (Mr McAleer): Robert, would you prefer to take a couple of questions before Denis does the briefing?

Mr Huey: I am not sure whether you got Denis's brief, but it lays out a chronology of what happened, some of which you have heard before and some of which is new. I can probably dip into that and answer some questions. If not, I will tell you so. I will do my best.

The Chairperson (Mr McAleer): Robert, I will ask you a question from the veterinary perspective. What has been the impact or potential impact of the decision on our veterinary controls and on the implementation of the protocol, which was to facilitate smooth east-west trade?

Mr Huey: Just to be clear, are you asking about Minister Poots's decision to halt the further recruitment of staff to the port facility?

The Chairperson (Mr McAleer): Yes.

Mr Huey: The staffing of DAERA Veterinary Service in general has been difficult over the last period. To illustrate that, we had a recruitment competition to get veterinary inspectors into the Department, and it is likely that only three to five people will come off that competition. The marketplace for veterinarians was difficult before any decision to halt moving further staff into the port temporarily.

There are other issues with Civil Service rules that make it difficult. You will remember that, famously, I said to you one time that the way in which I was going to staff the port was to rob Peter to pay Paul by moving veterinary staff from the field into the port. However, because staff in the port work a shift pattern and those in the field work plain time, I cannot compel — not that I would want to — vets to work in the port because that would be changing their terms and conditions. That makes the day-to-day staffing of the port difficult. It is not just one factor that makes staffing the ports difficult; it is a cumulative effect. This is just another one.

To be honest, it is not attractive work. It is enforcement work; it is front-line work. To many vets, it is not attractive. People are not lining up to volunteer to do it, and that is before you have the added personal security issues that we will talk about today. The Minister's decision to halt is a factor, but it is only one factor amongst many.

Dr Denis McMahon (Department of Agriculture, Environment and Rural Affairs): Chair, can you hear me now?

The Chairperson (Mr McAleer): Yes, we hear you, Denis.

Dr McMahon: I am really sorry about that. There was a little confluence of technical problems, and you finished the previous session a little bit earlier than we had expected. Apologies.

The Chairperson (Mr McAleer): Robert covered you well when you were temporarily offline, Denis.

Dr McMahon: I heard him saying that I should be worried about that, and [*Inaudible owing to poor sound quality.*] Would you like me to say a few words to start?

The Chairperson (Mr McAleer): Yes, we will more or less reset. Do you want to commence the briefing, Denis?

Dr McMahon: That is helpful. Thank you, Chair.

Thank you, Chair and members of the Committee, for the opportunity to come before you today to provide further evidence on the decision taken by DAERA to temporarily suspend physical inspections of products of animal origin at Belfast and Larne ports. With the agreement of Committee members, I will restate some of the key points just to set the context for further questions, but I will not labour them. I will briefly bring you up to date on the current position on sanitary and phytosanitary (SPS) operational delivery programmes and on the timeline.

As I said before, DAERA takes health and safety very seriously. Since March 2018, health and safety has been an item on the agenda of over 100 top-management team meetings, and formal updates have been provided to the departmental board on 16 occasions. This is a regular focus for us. Our

focus has been on ensuring that the capacity, policies, equipment and support is in place to protect staff and the people who use our services, and we do that in line with our legal duty under the Health and Safety at Work etc. Act 1974 to look after the well-being of our staff and the people working alongside them in DAERA facilities. We are also informed by the Human Rights Act 1998 and, in particular, the right to life. Importantly, however, our interest goes well beyond the legal requirements and into the need to look out for our staff's well-being, given the range of operational roles that they take on board.

With your agreement, it is probably worth going over it again briefly. I know that you have touched on some of the key elements that led up to the decision on 1 February. However, it will be helpful to elaborate on further developments. On Thursday 21 January, DAERA officials were alerted to incidents of graffiti, as you have heard. On Thursday 28 January, security was discussed at a meeting of the Society of Local Authority Chief Executives (SOLACE), at which the Chief Veterinary Officer (CVO) was present. On Sunday 31 January, as, I know, you have already mentioned, Minister Poots called me to express his concern about the safety of staff at points of entry (POEs). He stated that a local government officer had contacted him to alert him to potential health and safety risks as a result of threats to staff at Larne. He also referred to conversations with political colleagues at locations across Northern Ireland and other stakeholders who had reported threats. He subsequently contacted the PSNI to provide more details.

On Monday 1 February, at our morning gold command meeting — that is part of our major emergency response plan and, again, is important to understanding how we approach these things — departmental officials confirmed that they had been in touch with the PSNI as part of more regular engagement on the issue of ports. A follow-up meeting was held with officials to discuss the situation. On the same day, Minister Poots called me again at midday. He stated that he was registering formally his concerns about the health, safety and security of DAERA staff working at portal points of entry. Following that conversation, I spoke to senior PSNI officer, Assistant Chief Constable (ACC) Mark McEwan. He confirmed that the PSNI was gathering additional intelligence through local police and that he was bringing together a stakeholders' meeting for the next day, which I agreed to attend. He agreed to share a formal written threat assessment following that meeting the next day, although, at that stage, his assessment had not changed significantly from the previous week.

I am always careful, for the reasons that we have talked about, not to share the detail of those threat assessments. Mr McEwan reported his position in the media on 2 February. That, pretty much, was the position, which was around considerable tension in the community. The incidents of graffiti, social media commentary and other low-level incidents were indicators of that community tension that raised concern. He also did not believe, at least not to my knowledge, that, at that stage, paramilitary involvement was behind the threats.

As I said, I spoke to Mark McEwan on Monday 1 February at the request of SOLACE. Minister Poots met the chief executives of Mid and East Antrim Borough Council and Belfast City Council. At that meeting, concerns were highlighted about threatening graffiti, reports of vehicle registrations having been recorded, feedback from councillors and young staff, in particular, feeling threatened. I should also say at this point that Mid and East Antrim Borough Council had written separately and copied us into a letter that it issued to the Cabinet Office outlining its concerns about the implementation of the Northern Ireland protocol, including the health and safety of staff.

On Monday 1 February, Minister Poots called me in the evening saying that he wanted DAERA staff to be stood down at the Larne and Belfast ports, given the risks that had been identified. He stated that, as has already been noted, he was concerned about the risk posed to staff and was not convinced that the PSNI had a full understanding of the risks based on the feedback that he had been receiving. He emphasised the duty of care that officials had for their staff and noted that Mid and East Antrim Borough Council was already taking action, because, at that stage, it was. It had indicated that it was removing people from the ports.

Following the phone call with Minister Poots, the Chief Veterinary Officer, Robert, and I spoke to agree a way forward. I contacted Robert. Some key considerations were, first, the lack of knowledge of any formal written threat assessment from the PSNI; secondly, new information had been provided by Mid and East Antrim Borough Council about staff health and safety, and the council had taken a decision to remove staff from potential danger while allowing time for an updated formal threat assessment; thirdly, the fact that staff at Belfast and Larne had expressed serious concerns about the potential threats that they perceived; and, fourthly, that the Department would require, in addition to a formal threat assessment, a risk assessment and mitigations addressing the DAERA-specific concerns. On

the basis of those considerations, the Chief Veterinary Officer and I agreed a measured, precautionary approach. That led to the statement that:

"On the basis of information received today and, pending further discussions with the PSNI, Daera has decided in the interests of the wellbeing of staff to temporarily suspend physical inspections of products of animal origin at Larne and Belfast.

The situation will be kept under review and in the meantime full documentary checks will continue to be carried out as usual".

That is important too because we did not actually remove staff from the ports: we stopped the physical checks on those products. That is an important point of clarification.

During a subsequent telephone call, I confirmed with Minister Poots that he was content with this wording, and he stated that he was. Minister Poots temporarily resigned from the post at midnight on 1 February 2021 and was replaced by Minister Gordon Lyons. Minister Poots resumed his ministerial office on 8 March.

Following on from the evidence provided previously, on 2 February, a PSNI stakeholder meeting was held, attended by me, the Chief Veterinary Officer and other DAERA officials. It was agreed that a formal written threat assessment would be forwarded to the organisations involved in the meeting. The organisations would use it to set the context for their own risk assessments. There was correspondence between ACC Mark McEwan and me, securing agreement on a note to go to Minister Lyons for his Executive colleagues. It was subsequently provided by Minister Lyons to the Executive as a verbal update on 4 February 2021.

On 3 February, DAERA officials produced a draft DAERA risk assessment. Senior officials met to discuss prior to receipt of the formal PSNI written threat assessment. Minister Lyons was briefed on the timeline and background to events and indicated that he wanted to make a decision before the next steps. There was correspondence with ACC McEwan on the PSNI threat assessment, asking for it to be shared with DAERA formally, following up on previous conversations. The Chief Veterinary Officer attended a PSNI stakeholder meeting, and senior DAERA officials met to discuss the DAERA risk assessment prior to receipt of the formal PSNI written threat assessment.

On 4 February 2021, the PSNI written threat assessment was received by DAERA. Minister Lyons gave a verbal update to Executive colleagues, a senior veterinary officer attended the PSNI stakeholder meeting, and then senior DAERA officials met to discuss the updated risk assessment and the formal written PSNI threat assessment. Specific risk assessments were produced for each point of entry, and mitigations were quickly implemented to mitigate identified risks. A PSNI stakeholder meeting happened. If you remember, senior officials and I briefed you in the AERA Committee on that day, and the Mid and East Antrim Borough Council chief executive indicated to me that a decision was due to be taken on the return of council staff at Larne port.

On 5 February, DAERA officials met representatives of local councils. Minister Lyons was briefed on the next steps to be taken by the Chief Veterinary Officer. There was correspondence from ACC Mark McEwan thanking the PSNI for its support, and I want to put on record my thanks to the PSNI for its support and help throughout this process. We agreed to take up its offer of crime prevention assistance, which was very welcome and very well received. I attended some of that. A senior veterinary official attended the PSNI stakeholder meeting, and the Chief Veterinary Officer visited Belfast and Larne ports.

On 8 February, Minister Lyons responded to the permanent secretary's submission of *[Inaudible owing to poor sound quality]* February 2021, confirming that he would not be involved in health and safety decisions. On 9 February 2021, a letter issued from the permanent secretary to ACC Mark McEwan requesting that any change in the PSNI threat assessment be communicated to DAERA. The PSNI stakeholder meeting was attended by a senior veterinary official. On 17 February, a letter issued from the permanent secretary to ACC Mark McEwan seeking a weekly email to confirm no change in the PSNI threat assessment. On 22 February 2021, there was correspondence with the chief executive of Mid and East Antrim Borough Council about the erection of an opaque screen around the staff car park at Larne port. On 23 February, there was an email from the Mid and East Antrim Borough Council chief executive confirming a contact point for further operational issues and mentioning graffiti in Carrick.

On 24 February 2021, there was an update from the PSNI confirming no change to the threat assessment. On 5 March, there was an update from the PSNI confirming no change. On 11 March, there was an update from the PSNI confirming no change to the threat assessment and an update on 9 March. On 20 March, there were some renewed local security issues at Duncrue, which we resolved subsequently, and, as part of that, on 21 March, there was some correspondence from the Chief Veterinary Officer on those security issues. On 31 March, there was update from the PSNI confirming no change to the threat assessment. On 7 April, a senior official attended a PSNI meeting. On 14 April, a PSNI threat assessment was received, showing no change. On 14 April, a senior official attended a PSNI meeting.

Chair, with your agreement, I will give you one minute to update you on where we are with the SPS operational facilities or we can take questions now. There are a few things that I thought might be helpful to update you on. They are not directly relevant to the inquiry, but they are relevant to an understanding of where we are with the ports. I can take you through those if that would be helpful.

The Chairperson (Mr McAleer): If members are OK with that, we can do that. OK?

Members indicated assent.

The Chairperson (Mr McAleer): Go ahead, Denis.

Dr McMahan: OK, then. I thought that it would be helpful, with your agreement, to add a little briefing about the current SPS arrangements. DAERA had temporarily rescheduled planned activities on the permanent facilities at the ports. We had reviewed the scale of the permanent facilities in light of the actual data from the live running of the programme, recalling that we had been working to a ridiculous timescale to deliver it. We had to rebase our programme. The last time that we spoke, I advised you that the permanent facilities would not be completed before the end of March 2022. It is now clear that we will need to seek approval from the Northern Ireland Executive before any building of permanent facilities can commence. Prior to that, and over the coming months, we will need to prepare a full business case before seeking approval from the Department of Finance and HM Treasury. In order to prepare a robust business case, we will need clarity on the demand for services, the impact on staffing and the appropriate scale and design of any permanent infrastructure to support the delivery of those services. We have been doing a lot of work on that.

Some significant unknowns still need to be resolved. The primary concern relates to the potentially huge increase in volume if we reach the end of the current implementation period without the necessary mitigations in place. One is the digital assurance scheme (DAS) that DEFRA is leading on. It has been doing some excellent work on that, but it is still at a very early stage of design, and we have significant questions about what can be delivered and when. DEFRA aims to provide a digitally enabled end-to-end solution for suppliers, traders, retailers and hauliers to manage trade efficiently. Our analysis is that the number of common health entry documents will increase from approximately 2,700 per week — we are doing about 2,400 checks per week, although that changes — to at least 10,000 per week. There is huge variation and uncertainty in those figures, but that is part of what we are trying to deal with.

We know that an increase in certification will have a significant impact on businesses and customers, and all of that makes it difficult, if not impossible, to complete a full business case in line with 'Managing Public Money Northern Ireland', DOF and Her Majesty's Treasury guidance. Given that uncertainty and the scale of the works, we do not expect to be in a position to put final options to the Northern Ireland Executive ahead of 1 October 2021. While we have already completed the procurement, our current estimate is that the construction would take more than a year. Therefore, subject to Northern Ireland Executive approval, we do not expect permanent facilities to be in place before 2023. In the meantime, the Minister has put a paper to Northern Ireland Executive colleagues and continues to wait for an Executive discussion of that paper to be tabled.

With regard to staffing, the Minister's position is that there should be no recruitment at the ports for SPS checks. We are looking at the options for that and are happy to discuss it further, as appropriate. In the meantime, I thought that that might be a helpful bit of additional background on where we are in the programme. I am happy to take any questions that you have.

The Chairperson (Mr McAleer): Thank you very much. Denis, there are a couple of things that I want to mention before I bring members in.

We had a briefing from the ACC in the PSNI just before you, and we learned that the threats were unsubstantiated and uncorroborated. The PSNI is unaware of any complaint being made to them. Despite that, the Minister believed that the PSNI did not have a full understanding of the threats. He liaised with political colleagues and the Mid and East Antrim Borough Council.

As you rightly said, the Department takes threats and the health and safety of staff very seriously. That being the case and given the position of the Department, why did the staff continue to work at the ports? It looks as if this has more to do with the checks. If the Department was deadly serious about threats to staff, why did the checks continue? Why did the focus go on to the checks, as opposed to the staff who were working in what you might, and what the Minister certainly did, deem a danger zone or an area that posed a risk to their health and safety?

Dr McMahon: You ask an important question [*Inaudible owing to poor sound quality.*] I will deal with the first point, which was about the principle. There has been quite a lot of interchange between the use of the words "threat", "individual threat" and "risk". Those are different things. Different organisations have different responsibilities in that regard. In the previous evidence, which was really helpful, there was some highlight of that about the fact that, for example, Departments deal with risk. Our responsibility is set out in the 1978 Health and Safety at Work Order. We take that responsibility seriously, and we work with it.

The threat assessment is a general threat assessment; it is typically not location-specific. However, more recently, the police have said that their threat assessment, which is the one that we receive, relates to the specific issues around the ports. There is a changing situation in the wider community, so the police focused their attention on the ports.

The police give the general threat assessment, which we use for our risk assessment. There is a really important point in that regard about health and safety. We have always had good communications with the police. The correspondence that I have just outlined, for example, is part of that, as are the meetings that we have attended, but we have always had that relationship. Again, I thank them for that. We are required to take decisions that are reasonably practicable, and we are required to evidence them. If something were to happen to somebody down the line — say that there were a corporate manslaughter issue or a lesser health and safety issue more generally — we would be required to show the evidence for how we take our decisions, what we base our evidence on, and how we ensure that staff are safe.

It is not a symmetric thing. If the police were to say to us, "There's an immediate threat to your staff", we would act immediately; there is no question about that. If there was a question about a broader level of concern in the community, significant questions about what we need to do about it and broader questions that lead to a concern about safety, we would have to act as far as is reasonably practicable in that regard. That is what we have done.

That takes us to a bit that Robert might want to comment on, as it is very much Robert's steer. The question is what a measured response is in that case. The issue in terms of staff going out to do physical checks is that they are outside, they are visible, and they feel vulnerable, particularly when there is that level of concern. We were concerned; we did not want them to feel like that. If you do not mind, Chair, Robert might comment on the thinking behind that.

Mr Huey: Chair, you need to get into the detail of this to understand how I came to the conclusion about a measured precautionary approach. As you know by now, there are three parts to the checks that are carried out at the port. The documentary checks are done by admin staff remotely from the port. There was no risk to them, so there was no reason for stopping documentary checks. The identity checks are largely done through seal checks in GB, so there was no need to stop those; the threat was not against those staff. That brings you to the physical checks and what we should and should not do. It was all done with knowledge of where the staff feel vulnerable. Staff feel vulnerable when they are pulling the lorries off the back of the boat, where they are exposed in their yellow jackets and are visible for all to see. We stopped doing the vast majority of the checks, which are the product checks. We suspended those for a period. That allowed the staff not to have to go to that area; the animals and plants largely come to us without any other direction. That seemed reasonable to me, given the level of evidence that we had on a Monday night after 10.00 pm and in a place where we had no written threat assessment from the PSNI. Where we had an elected forum that had already made a decision on the Monday night to withdraw its staff, what we did seemed measured and precautionary, and that is how I came to that conclusion. Therefore, it was a compromise. However, I will emphasise that it was a compromise that the staff were happy with, because, otherwise, we would not have gone there. I made it clear to the managers on the floor that no one was to be asked to do

anything they were not comfortable with. We let our management on the ground ensure that no one was asked to do anything they were not comfortable with. I will stand over that decision; I think that it was the right one at that time.

The Chairperson (Mr McAleer): Thank you, Robert and Denis. I will move to the members as a number have indicated that they want to ask questions.

Mr McGuigan: Thank you, Robert and Denis. We have previously covered some of that stuff. I have a number of questions, and I am going to dive straight into them. Denis, did you have or express any concerns to the Minister that there was the potential that he was making a political decision or exaggerating another issue or staff safety to make a political decision based on his viewpoint about the protocol?

Dr McMahon: No. I did not make that point. Obviously, there was a discussion about the nature of the threats. I was clear about the fact that I would not decide without evidence. However, on the other hand, that works both ways. At that stage, if you remember, we still did not have the written assessment. We had really useful conversations with the PSNI. The PSNI's view was consistent with what had been said all along: at that stage, there was no general evidence of any paramilitary involvement but there were social tensions. That is always the piece behind that decision. It is not just the organised involvement, it is the fact that once tensions are higher, things can happen, and we know the situation can get out of control very quickly.

The Minister pushed the position hard. I thought he was expressing genuine concerns. As I have previously said, I was talking to the Minister, who is a politician, and obviously he will have political views and input. However, I got the impression that he was genuinely concerned and felt that we were not aware of all the risks and were not taking them seriously enough. My view was that we will act, but we will only act on the basis of evidence. As I say, evidence needs to come from all angles.

Mr McGuigan: The point about evidence is key. There is a difference between allegations or assessments when it comes to evidence. You mentioned that the Department has a duty of care for staff. Surely, any reasonable person would understand and acknowledge that the PSNI has a duty of care for every citizen and individual to protect them against threats to life and property. You pointed out that, if questioned, you would have to provide evidence. Surely, if something went wrong and the Department was questioned, it would have been able to point to the fact that the PSNI had said there was a low risk, and that would have gone a long way to ensuring that the Department had followed procedures properly.

There is also the timing issue. The PSNI had said that, from 21 January, the risk was low. Even though others were mentioning things that had happened, the PSNI assessment was always that the risk was low. On the day of the decision, the PSNI assessment was that the risk was low. A meeting had been organised for the following day, when some of the other issues could have been put directly to the PSNI. The PSNI would have had an opportunity to say, "That is not true. We have no intelligence or assessment of that". The fact that the extra day was not given for a full picture to be shown will cause many people to question the political nature of that decision. There is also the issue of Mid and East Antrim Borough Council's involvement, and you, very helpfully, said that the council wrote to the British Home Office concerned about the implementation of the NI protocol. From that, we can certainly gather where the council's political intent and interests lay.

Dr McMahon: Just to clarify, it was the Cabinet Office.

Mr McGuigan: The Cabinet Office: I do not think that that will diminish my point, but thank you for the accuracy.

We now know, from meeting the trade unions — this is why I say that evidence is key — that, when it made a decision, Mid and East Antrim Borough Council made public commentary that we now know not to be true. It said that trade unions had concerns. The trade unions that met us said that they did not have concerns over and above what they had said. They were misinterpreted at the council meeting. Mid and East Antrim Borough Council made public pronouncements about intelligence gathering and number plates being noted, which the PSNI has refuted.

My point is that a DUP Minister made a decision the day before he was going that created chaos around the NI protocol, which he was politically against, and was based solely on evidence from officials, councillors and political partners who had the same assessment, not on any evidence and not

on the assessment of the PSNI. It was also the day before there was to be a scheduled meeting with the PSNI, at which all this could have been sorted out. From that point of view, given all that, are you saying that you had no concerns that this was a political decision rather than a decision based on the safety of staff?

Dr McMahon: My position on this is clear. Let us take it back to the basic principles. We have to take decisions on the basis of the legislation. We have to be able to evidence those decisions. It is great having conversations and regular meetings — this conversation is a good example of that — but you sometimes need things in writing to be able to take decisions that you can stand over. At the point that your question is focused on, we still did not have a written threat assessment.

It is also important to say that, as you correctly said, the police have gone above and beyond the call of duty in helping us. Certainly, since all of this happened, we have had great support, but we have always had great support from them. However, they cannot be held responsible for the health and safety of our staff. There cannot be a threat assessment that comes from the police that would cause us to bring staff back in, for example, if we were worried about particular issues. That has to be our decision. We have to take threat assessment into account.

The key thing is the nature of the police assessment. On 2 February, as I said, ACC McEwan was quoted as saying that there was:

"considerable tension within the community ... the incidence of graffiti, social media commentary and other low-level incidents are indicators of that community tension so that does cause us concern."

The point is that, at that stage, there was no evidence, according to the police, of paramilitary involvement.

If the police were to say to us tomorrow, "There is an immediate threat and you need to do something", I can assure you that we would act on that immediately. That would not even be a question. What we are talking about here is a slightly more nuanced assessment. It is an assessment that is saying, "There are tensions, but we do not believe that paramilitaries are behind those tensions". I should say "organised paramilitaries": that is an important caveat. That does not suggest that there is absolutely no risk of anything happening or any problem ever. As Robert said, Mid and East Antrim Borough Council, as far as we could see, was acting on the basis that it was concerned. As far as I heard, the Minister was genuinely acting based on concern. We had a good discussion and exchange of views about the matter. All of those things being equal, and without so much as a piece of paper to support an action, there were two decisions to be made: the decision to keep people working or the decision to stop. There is no such thing as no decision in that case. If we had said, "We are going to ignore all that. We are going to act without a written threat assessment and, for that matter, a departmental risk assessment to base the decision on. We are going to ignore the concerns that staff have raised with us, and we are not going to act on any of that", that would have been a decision. Therefore, for me, there is a balanced decision, and, when there is a balance, as Robert said, we have no problem saying, "When there is a balance or a question mark, we must act in line with the legislation, but we must also do what is right. We must act based on safety first when it comes to staff. I am being honest with you: that is the information we had at that stage, that is how we acted on it and that is why we acted on it.

Mr McGuigan: OK. With your indulgence, Chair, I have a final point. I will repeat that the PSNI had made a public assessment the week before, and there had been ongoing contact. On the day of the decision, there was contact between the Department and the PSNI. The PSNI stated that its decision had not changed, and the risk was low. There was a meeting scheduled for another day that could have explored all the information. The Minister took a decision that was not against the PSNI advice but ignored it. His decision was based on advice from Mid and East Antrim Council. On that basis, who did the Minister speak to in Mid and East Antrim Council? What specific threats were detailed? Given that we are talking about written evidence being key, is there a read out of the calls between the Minister and Mid and East Antrim Council?

Dr McMahon: I do not have a read-out of the calls. However, you have the main note, and it is minuted, if the Committee wishes to ask for it. There was a meeting on 1 February, at the request of SOLACE, with the chief executives of Mid and East Antrim Council and Belfast City Council. I am having another look at my notes. Yes, is that correct, Robert?

Mr Huey: Yes.

Dr McMahon: So that is the read out. The concerns that were raised by Mid and East Antrim Council are reported in the evidence that I have given to you, and there is a separate minute of that meeting.

Mr McGuigan: Prior to making the decision, did you or the Minister feel that it would have been prudent to wait less than 24 hours to meet the PSNI to discuss the matter?

Dr McMahon: You are talking about two decisions. There is the Minister's decision to escalate the issue, and he did escalate the issue through myself [*Inaudible owing to poor sound quality*] and that is one decision. To be honest, I want to address the political point. One of the major benefits of working in our system is that we get a lot of political feedback from the ground through political representatives, the Assembly, Committees and other means. When I get a political assessment about what is happening on the ground, it is not unique to find a situation where we may have a view as officials that something is working very well in DAERA, and politicians may tell us, "You are not aware of X, Y or Z". I am sure you have done that yourselves. When that happens, I always take it seriously because it usually turns out to be right. Therefore, that is the basis for the decision. We took the information into account when making our decision.

Mr McGuigan: Thank you, Denis.

Mr Blair: I thank Denis and Robert for the additional specifics that they have provided today. As well as that, I want to say that, of course, the Committee is very aware of the seriousness of any threat or perceived threat to staff and we understand fully the responsibility of those with a duty of care towards those staff. Nevertheless, because of the sequence of events, this inquiry is absolutely necessary and, hopefully, I will highlight the necessity of that in these two questions.

May I ask Denis to clarify something for me? It was mentioned that SOLACE met on 28 January and 1 February. Did officials attend the meeting on 1 February that the Minister had with SOLACE?

Dr McMahon: Yes. We were invited to it, and Robert and I attended it. [*Inaudible.*]

Mr Blair: OK. On the same theme of the involvement of officials, the timeline that I have — it is repeated in the presentation and the documentation that was provided today and was given to us on 4 February — mentions the Minister speaking to a local government officer on 31 January. The Minister had contacted the police and had talked to colleagues. He had relayed concerns to the permanent secretary on 1 February, and there was a conversation with SOLACE on 1 February. In the contact between the Minister and the local government officer, for example, on 31 January, how much involvement was there from DAERA officials in those conversations, particularly with officials from Mid and East Antrim Borough Council between, let us say, the SOLACE meeting on 28 January and the decision or recommendation of 1 February? How many conversations took place between DAERA officials and Mid and East Antrim Borough Council officials?

Dr McMahon: I do not have a record of that with me, but I know that there were some conversations. I mentioned a gold command meeting that we had, and I believe that those issues were raised. Robert may be able to say more about that, and we will look into the records around that. I know that Robert would have passed back some concerns that had been raised at the SOLACE meeting through gold command. That was probably on the Thursday or the Friday. Robert may want to clarify that point.

Subsequently, when the Minister spoke to the official on the Saturday or, rather, when the official spoke to the Minister on the Saturday and raised those concerns, we had no involvement in that conversation. I was subsequently contacted by the Minister the next day, and he told me that he had talked to the official, or rather that the official had spoken to him and had raised those concerns. He also talked about the fact that he had talked to a number of politicians about concerns that they had, which were widespread and beyond the immediate vicinity of the ports. That is why I did not really want to go over his evidence with him, because I thought, quite correctly, that the right place to make sure that the issues are raised was with the PSNI. The Minister spoke to a senior PSNI officer on the evening of Sunday 31 January.

Mr Blair: OK, thanks for that. So, we are clear that no departmental officials were involved in the conversations that the Minister had with officials on 31 January.

Dr McMahon: No, not to my knowledge. *[Inaudible owing to poor sound quality]* I am not aware of any officials. It was never even a question for me. To be honest with you, I was treating the issue in line with the way you would treat a whistle-blowing case. That was the thinking around that.

Mr Blair: OK, thanks for that. My second question relates to the policing situation and contact with the police. I declare an interest as a member of the Northern Ireland Policing Board. I am, of course, glad to hear of the positive feedback on police engagement. So that we are clear, in all that took place in the build-up to the decision to withdraw staff on 1 February, did the Department, at any point, make any attempt to contact the police urgently for an update?

Dr McMahon: We had been in regular contact, particularly since the graffiti. Again, that might be something that Robert can comment on. There is an important point in that regard. The question about whether there was a specific threat against individuals and whether that was something that we reported has been asked a couple of times. Of course, we did not, but we would have reported graffiti or any concerns in order to, apart from anything else, make sure that the police were aware and reassure staff that we were working with the police. We would have done that anyway. Robert, is there anything that you want to add or correct? I want to make sure that I am not missing something that the Committee needs to hear.

Mr Huey: I will briefly run down the timeline. On 28 January, I attended a SOLACE meeting to talk about the operation of the ports and the role of our staff. We also discussed charging. Almost as an aside, I mentioned the graffiti and the security situation. I repeated the PSNI threat assessment — that it felt that it was not an organised threat and that it was at a low level. I was informed by the chief executive of Mid and East Antrim Borough Council that that was not the case; she said that she had local information that it was serious. The next morning, at our gold command meeting, I reported that information. I was quite surprised by it. We had been briefing the staff that it was a low-level threat. That was our understanding; that was what the PSNI was telling us.

I repeat that the PSNI worked with my staff on risk assessments specifically for each of the sites that we have. It gave staff, via Zoom and otherwise, crime prevention and personal security advice. That was great. The police greatly supported the staff and made them feel much more secure in their work.

Mr Blair: Thanks for that. I just want to be clear that a perception was conveyed to you by a council official, albeit a very senior one. However, it appears that, at no stage between 28 January and 1 February, did either the council — we can ask it at a later stage, of course — or the Department go to police and ask for an urgent reassessment because of the emerging information.

Dr McMahon: The only thing that I would say about that is that my phone calls with ACC McEwan were about making sure that there was urgent clarification. As the timeline shows you, on 1 February, the pressure was building around that; we were getting that information in, and the Minister had contacted me at lunchtime. In fact, to be fair, the Minister said, "It's important that you ring the police. You need to make sure that they're fully aware of all of the facts". I said *[Inaudible.]* I said to ACC McEwan, "Look, it's really important that we have a good understanding of what's going on". As I said, he has been consistent. He was consistent in his subsequent statements. I understand that it was summarised as a low level of threat, but there are different aspects of it that are a little bit more nuanced than that. You will probably be glad to hear that I, as permanent secretary, do not want to be in the position where I have to ring the police every day. It would not be an everyday occurrence. The fact that I rang him and went to the meeting the following day — that is not normal — reflects the fact that serious concern was being expressed to us. Honestly speaking, it was the same for us. I was genuinely getting concerned. I was thinking, "Are we missing something here? Is there something that's happening below the radar that we're not aware of?".

Mr Blair: Thank you both for that.

Mr McGlone: Thanks to Denis and Robert for their information. We have covered quite a bit. We heard from ACC Singleton earlier that at no point was any complaint registered for investigation about a risk or threat to any individual. I am not concerned about DAERA, but it concerns me that evidence was provided to the Committee by a union representative but has not been followed up on, either by way of the council reporting it to the police or the police asking the individual for further information. If such issues are raised with the Department for investigation or clarification, I presume that normal practice is to pass them on for investigation by the police: is that correct, Denis?

Dr McMahon: Yes. Anything that we are concerned about or if we are concerned that a crime may have been committed or there is an issue, the advice to staff is that we will contact the police through our gold command process. That is normal practice.

Mr McGlone: I appreciate that. You touched on the issue of how we are progressing, or otherwise. Thanks very much for raising it, because it is a very topical issue with an awful lot of people in the North. Discussions are taking place between the British Government and the EU on the protocol. I was listening earlier. Was that the full build programme being delayed that you were referring to?

Dr McMahon: Yes. It was.

Mr McGlone: Is that the same programme that, back in your evidence in November, you anticipated it taking until June 2021 to complete?

Dr McMahon: Yes. That is correct. One of the reasons that I wanted to mention it is because we wanted to make sure that the Committee is fully informed as the picture changes. When was that evidence session to which you referred?

Mr McGlone: It was on 5 November.

Dr McMahon: At that stage, we were working on the basis of the contingency arrangements. To be fair, the contingency facilities have worked well. They are not perfect. They are good-quality facilities, as contingency arrangements, but they are not suitable for the long term. At that stage, the challenge on which we were focusing all our attention was getting the contingency arrangements in place. We, and, for that matter, the contractors, did not really have the opportunity to look at a proper, full-build programme. In the meantime, we now have three months of data on the running of the ports, and we are getting a better idea of what is involved. It is not a perfect idea but a better idea, and that is giving us a sense of the scale of the challenge. The facilities will be an issue. There is no doubt about that, and it will need to go to the Executive for discussion. The real worry, however, is about the number of veterinary staff that will be required and how that can number be achieved. That is taking all of the politics out of it [*Inaudible owing to poor sound quality.*] That, in turn, has an impact on the building requirements.

For a normal programme such as this, you are talking about a major build of the order of £50 million, including the contingency arrangements, and it takes time to get right. We have not had a chance to pause and say, "How should we be taking forward this programme with good governance?". Up until recently, it had been all about meeting a deadline of 1 January and getting it up and running, which we did. Again, taking the politics out of it, we just needed to take that time to rebase the situation properly and understand what the issues are. We are not quite there yet. There is a bit of work that we still need to do, particularly around staffing.

Yes, you are absolutely right in what you say. Back in November, June 2021 was still our target, but that was before we had the conversations, internally and with our contractors, about what was required for the full build, knowing what we know now about the volume of material coming through.

Mr McGlone: I have to confess that that is odd, Denis. Before you build anything, you will normally have the conversations to establish what you are going to build. This now seems to be slipping back almost two years. I cannot quite fathom that. Can you also explain to me, why the matter has to be referred to the Executive? What has come about to move it from the host Department, the Department of Agriculture, and make it have to go to the Executive?

Dr McMahon: Anything that is significant, cross-cutting or controversial needs to be brought to the Executive. Ultimately, it is a decision for the Minister to bring it to the Executive. He already took that decision with an earlier paper, which has not yet been tabled. That follows on from an earlier briefing that we gave you on former Minister Lyons's decisions. Minister Poots's decision is on the back of that.

That means that we are in that territory already. It is significant, cross-cutting and controversial. That is my view, although people may have a different view. In addition, there have been a lot of examples of major infrastructure programmes for which there has not necessarily been the same level of controversy around the reason for their being built. As big Executive programmes, however, they require Executive endorsement, and it has been perfectly normal to go back to the Executive on such

projects. Even using that criterion, we need to go back to the Executive anyway, but the fact that it is a significant, cross-cutting and controversial issue is the main rationale for going back to the Executive.

Mr McGlone: I have a final question on that, before I move on to the staffing issues. Has a tender been entered into with a contract or contractors? Has a contractor been issued with a tender and complied with it for a new build for completion in June of this year that has slipped back to possibly January 2023? We all know about contracts: extra costs and such things can kick in. There will be upwards of a two-year slippage with the contract. The start date, completion date and all those things have been pushed back. I presume that a contractor is not going to be hanging about for a year, a year and a half or whatever it might be for Departments to get their act together around start and completion dates. They have staff to pay and resources to buy. They have to manage that contract. Presumably, everything has changed and shifted. How will that contract be fulfilled without additional costs?

Dr McMahon: You would not want me to go into the detailed commercial discussions, as that would not necessarily be appropriate. The general principles of what you say, however, I would not disagree with. We have worked in good faith with the contractors, and we continue to do so. Mark can talk in a bit more detail about that. He is in regular contact with our colleagues in Central Procurement Directorate (CPD).

Yes, delays result in costs, and all those things are part of the challenge. In fairness, if you take a look at what was delivered in Dublin, which is the only comparator that we have for something like this, it took an awful lot longer than seven months. To get the whole thing up and running, it took three years. I have that from talking to my counterpart in the South. When you look at the situation in that light, you will see that we have been going at it full on. Remember that, last year, we did not have clarity from the EU and the UK. Negotiations were going on right up until 31 December. It is only the middle of April now, and we have run a live service for three months. I have said this before, but, honestly speaking, the fact that our staff, and Mark in particular on the contract side, got this to where we have got it is really a miracle.

That does not take away from the points that you are making, however. You are absolutely right. Those are issues that we have to manage our way through, address and work with the contractors on. One of the reasons that I wanted to mention it today was to make sure that we are being open and transparent about that.

Would it be helpful, Mark, to say a few words about where we are with the contractors?

Mr Mark Livingstone (Department of Agriculture, Environment and Rural Affairs): I can pick up on that, Denis. Can you hear me OK, Chair?

The Chairperson (Mr McAleer): Yes.

Mr Livingstone: Good morning, members, particularly Patsy. Thank you for raising those queries. The contract is a fairly extensive one. It is an NEC3 contract for contracted services. In simple terms, you pay for what you get, but, in the real world of contracting, it is not as simple as that. We have issued a control stop to the programme design team on the contractor side, for example, which means that we have said to the contractors, "Can you wait for six weeks? Take time out for six weeks to allow us to get through some of the key issues that we are trying to deliver at the minute". Denis has covered those. For example, we need to finalise the designs and our schedule of accommodation and get into the workforce planning side. The contractors are conflicted by the fact that we have to consider what the digital assurance scheme will handle. There are costs associated with that, and I am working my way through them. I can provide a fuller briefing to the Committee.

I am working with CPD on compensation payments, which could be in the region of £300,000. I will take you back to the initial need of the contract and how it is delivered. You pay for what you get. I am very close to all the contractors, through CPD, and we are very aware of the impacts that the delay will have on the contractors. We are taking through three big contracts at Belfast, Larne and Warrenpoint, with Foyle's being a bit smaller. We are working our way through those. Yesterday, we wrote off for legal advice on the details of the contracts to support us as we work our way through them. I hope that that is helpful.

Mr McGlone: I have one final question, Chair, if you bear with me. I am aware of the fact that EU officials observe the proceedings of the Committee. There was an understanding, if not an

undertaking, that this work was to be done pretty pronto. Will the issue that the Committee and I have become aware of today, which is that the projected completion for the full-build programme is January 2023, cause obfuscation and further problems for a situation that is difficult enough to manage as it is?

Dr McMahon: We have worked [*Inaudible owing to poor sound quality*] with our DEFRA colleagues, who are in [*Inaudible owing to poor sound quality*] communication with the EU at an official level. Likewise, Robert is in contact with EU officials. We have made sure that people are aware of the situation. This gets to the heart of where we have been throughout the process. We had a political process around a trade agreement, which is perfectly normal and natural. In the middle of that, we have been trying to implement some significant operational changes. As we have talked about, the changes are controversial, but they are challenging, even operationally, in their own right. One of the fantastic things about the Committee is that we have been happy to come to talk to you and tell you what is happening, warts and all, regardless of whether it is right or wrong on the ground. We want to make sure that you know that, but we are also happy to communicate more broadly. The only way in which we have been able to get to this point is by being straight. When we talked about this at the first Committee meeting on the issue, when I had taken on the senior responsible owner (SRO) role, I said that we were red/amber and that we were going red. We got an independent gateway review, and it confirmed that we did go red.

That is how we have worked this from the beginning. Your point is fair, but, unfortunately, we are at the end of the process that has to deal with the operations, after everyone else has had the big discussions and political negotiations. We have to do our best operating within those constraints and deliver what we can, when we can. That is where we are at.

Mr McGlone: I get that. As I tried to point out at the time, it was unrealistic — nigh on impossible — to deliver a full-build programme in six months at that cost when the planning approvals had not even been received. Thanks for that, Denis.

Robert, back on that occasion in November, you mentioned that you would need 25 vets, 75 portal inspectors and 12 admin staff to do the checks that you talked about. How far advanced are you in meeting those staffing requirements?

Mr Huey: The staffing requirements are up to expectations, except in the case of vets. I have half the vets that are required. I need around 27 front-line vets — I think that that is the number that we are working to — and, at the moment, I have about 12. That does not leave much room for people to take leave or to have a proper work-life balance. That is a real issue for me.

The veterinary work is twofold. There is a paperwork part to it, where all the common health entry documents (CHEDs) and the certificates that we talk about have to be signed off. Most of them have to be signed off by a vet. There is that job, and then there is the job of overseeing the physical inspections, so there are two jobs. At the moment, we are doing our best to do keep the documents moving by doing the paper ones, but we are not doing the level of physical checks that we need to, because we do not have the staff and, to some extent, the facilities to do that. It is an issue of pure volume that we, the Commission or anyone else had not anticipated. The figures for what we are doing are astronomical. We are doing about 325 CHED checks by a vet a day, and that is a lot.

Mr McGlone: You mentioned vets. You said back then that you would need 75 portal inspectors and 12 admin staff. How are you squaring up to meet those requirements?

Mr Huey: That is not a problem. I do not have difficulties with portal inspectors. We also have other staff that we did not recognise that we would need. We have stevedores to help us unload vehicles and do the physical work around the place, and we had a group of industrials. We have sufficient staff to do the work at most of those grades. The pinch point is with inspectors on my side — the entry side — and we also have a deficiency in plant inspector numbers. Those are the professional grades of staff responsible in law for signing off the entry documents. That is where our pinch point is, and that is a difficulty across the piece.

Mr McGlone: Are you likely to receive those staff shortly? What is the aim?

Mr Huey: The aim is to look at it in a different way. As I said earlier, Patsy, the indications are that the vets are just not out there in the workforce. There is a problem there, be it with vets in private practice or government practice. We have talked about that before. I am therefore looking at a different way of doing it. I hope to put proposals to the Minister tomorrow, so I do not want to pre-empt anything.

Mr McGlone: OK. Thank you very much indeed, Denis, Robert and Mark. Thank you, Chair, for your forbearance.

The Chairperson (Mr McAleer): No problem at all, Patsy. Before we move to the next member, I have a question that follows on from yours.

Robert and Denis, there must be fierce pressure on staff. Denis, you quite rightly talked about numbers. Robert, you said that you have fewer than half the number of vets that you need, which has implications for shifts and work patterns. Surely that will have a big impact on staff morale and work-life balance. Has that been taken into account? Has the Department taken into consideration the impact that this is having on staff morale?

Mr Huey: That is a huge concern, Chair, and a difficult one to solve. We have set up structures in the Department to look at novel ways in which we can help to mitigate the situation.

The morale bit is a strange thing, because there is a real fighting spirit out there. We are almost having to force people to take leave. There have been one or two members of staff who have literally been told, "You're taking a week off," and they have not wanted to go, because they are aware of the space that they will leave behind when they step out of the line. I have to commend the staff for that. The work that they do is tremendous. Their dedication and professionalism are tremendous, but this is not sustainable. We have come to the point at which something has to be done about it, and I have a range of thoughts on what could be done about it. We will take those thoughts forward, but the staff have done a great job. On the issue that we are talking about today, when staff were told, "If you do not feel that you want to be at work, go home", nobody took up the option of going home. They stayed at their workplace.

The Chairperson (Mr McAleer): It is important that we all remember that they are human beings with families. It is important to keep an eye on their morale and welfare.

Mr Irwin: I thank Denis, Robert and Mark for coming along.

For me, the safety of staff is paramount. I know that the Department and its officials were in a difficult position. You made a decision to withdraw staff and were blamed for doing that. If you had not done so, and a situation arose whereby someone was injured, you would probably have been blamed for not removing staff. One member said earlier that removing staff created chaos. Am I right to say that it had no major effect on trade? Am I right to say that lorries still moved and that it did not really create any chaos?

Mr Huey: That is correct, in that we still did documentary identity checks. All that happened was that the percentage of physical checks that we were able to complete dipped. We still did animal checks. We still did plant checks. The percentage of checks that we did on other products and supermarket goods was lower. We allowed consignments to enter Northern Ireland. We did not put a block on them just because we could not do the checks. That is the position.

Mr Irwin: I have one more question. On what you said earlier, Robert, did you have any concern coming from line managers about any threat?

Mr Huey: I went out and spent a bit of time with the staff in order to understand where they were at. Across the staff, regardless of the grade, whether they were managers or front-line staff, there was a full range of concerns. Some, who were perhaps around my age and had lived through former times, were very blasé about it. They just shrugged and said "What?", but I have a lot of staff who are younger and had not experienced anything like that before. I also have staff from other parts of Europe whose families back home, wherever that is, were concerned about them.

What came across most was that, although staff felt OK and reassured at work, some were really concerned about their home life and the effect that that might have on their family, particularly those living in a community in which their work at the port might not be appreciated. They were much more concerned about being at home. That had not really hit me, as I had been thinking about their work rather than their home life. There was a full range of attitudes among staff and a range of issues that they brought to me. When people are writing on walls that port staff are targets, it is not something to make light of. That is serious to the people whom it directly affects. The range of reactions was what you would expect in any group. Some shrugged their shoulders and went about their business, but others were genuinely concerned.

Mr Irwin: Robert, you said earlier that you had put out an advert for vets but were able to get only five more. We are in the grace period, with many fewer checks than there potentially will be after it ends. If there is no change, how many vets will you need after the grace period ends? I believe that there must be significant change to the protocol if staff and the Department are to have any chance of dealing with it. Given where we are at today, if there were no change to the protocol, how many vets would you need at that stage?

Mr Huey: Led by the permanent secretary, we have been doing a bit of crystal ball gazing on that. We cannot get away from a range. At the moment, we are doing 2,400 or so checks of a CHED-P type. Based on estimates that have been given before, of somewhere between 12,500 and 25,000, we cannot do very much more about accuracy than that.

We are working from assumptions that we have made on consignments that come through Northern Ireland to go to the South with some of the supermarkets. Although there is a scheme for temporary agri-food movements to Northern Ireland (STAMNI), which is one self-written declaration a consignment at the moment for a fridge unit for a lorry going to one of the supermarkets, it is likely that each one of those loads will have six to 10 export health certificates (EHCs), a veterinary certificate, six to 10 plant certificates and perhaps more than 50 fish catch certificates: all that for one freight unit that is currently covered by one self-written declaration. That is where I am getting the huge range from of 12,500 to 25,000 documentary checks of CHEDs that need to be done. I said that we are doing 325 a day at the moment. Those numbers are astronomical. We are talking about needed three times as many vets as we do not have at the moment, or something along those lines. It is probably something around the 60 mark that we require, and that is getting close to unachievable.

Mr Irwin: In other words, if there are not significant changes to the protocol, it is almost undoable. Am I right in saying that?

Mr Huey: The worst-case scenario is undoable. I am content to say that.

Mr Irwin: Thank you very much, Robert.

Mr Harvey: Thank you, gentlemen. It is good to see you again. I will start by saying that early intervention to protect life and staff is the best way, and it did not have any serious implications. I would like to think that it would be done again without question if the need arose. We all know that, when danger arises, we need to act fast. Some of us think that that was perhaps an overreaction, but I do not think that it was. If you were one of the staff, you certainly would not think so. It would increase your confidence to know that you are being looked after.

How long did it take the PSNI to send a written threat assessment? Was it hours or days?

Dr McMahon: Robert probably knows more about the practicalities of this. It is important to say that sometimes threat assessments take a bit of time to get together, because there is a wide range of sources involved. I do not pretend to know and I do not want to know the details around that, but I know that there is quite a formal process undertaken. The issues that we are talking about were coming to a head on 1 February, and it was very clear that we would need something written by then. We had had good discussions with the PSNI, and we had been getting a lot of verbal feedback, but the formal written threat assessment was on 4 February. It took three days from 1 February to get that.

Mr Harvey: If the PSNI took a number of days to respond, surely that shows that it was not a straightforward assessment.

Dr McMahon: Again, I do not pretend to understand how those things work, but I know that they are not straightforward. In fairness, I would much rather have a good-quality threat assessment and know where we are than not, but, yes, it does take some time. Robert, do you want to add anything to that? You probably know a bit more about this than I do.

Mr Huey: A little bit more, but it is just a matter of having to gather intelligence and information from a number of different sources. The PSNI will use open sources, such as social media and the media, but it will also have its own sources and those of other organisations to draw on. It takes time for all that information to be gathered together and weighed up and for an assessment to come out at the end. It is not just somebody sitting in a room scratching their head and saying, "Ah, it is a bit of that". There is a formal process behind a threat assessment being made.

Mr Harvey: I appreciate that. Thank you very much.

Ms Bailey: It is good to see you again, Robert and Denis. I want to go back to the letter that was written by Mid and East Antrim Borough Council to — was it the Home Office?

Dr McMahon: It was to the Cabinet Office, and we were copied into it.

Ms Bailey: Sorry. Do you know on what date that letter was sent?

Dr McMahon: I think that we were copied into it on 1 February. Let me check that. Yes, it was 1 February.

Ms Bailey: 1 February?

Dr McMahon: It was about a range of issues [*Inaudible owing to poor sound quality.*]

Ms Bailey: Sorry, I am finding it hard to hear you, Denis.

Dr McMahon: Apologies. Can you hear me now?

Ms Bailey: Yes.

Dr McMahon: Apologies. It was to the Cabinet Office on a range of issues around the Northern Ireland protocol and the operational [*Inaudible owing to poor sound quality*] including concerns about staff safety, but it was wider than that.

Ms Bailey: OK. Did you have sight of that before it was sent or after it was sent?

Dr McMahon: No, it was a courtesy of the council to copy us in to it.

Ms Bailey: OK. Has the Committee got sight of that letter, or are we allowed to see it?

Dr McMahon: It would probably be better to ask Mid and East Antrim Borough Council for that, given that it was its letter.

Ms Bailey: OK. Thank you very much.

I want to go back a bit. I can completely understand what you say about the difference between a threat assessment and a staff health and safety assessment. They are very different things. However, we know that, throughout all this, the threat assessment never escalated above low level in the PSNI's assessment, and it remained there.

With regard to health and safety, we can just look at the escalation since 1 February — really, at the end of January — when all this was public and in the media. It would not be too hard to link that escalation to the riots that we have been seeing on the streets over the past few weeks, but that is for somebody else to do. I use that as an example of how quickly things can escalate.

You are, obviously, undertaking the health and safety assessment for staff in terms of looking after their welfare and conditions, as well as a perceived security risk. There is still no recruitment. We heard from Robert about how much pressure staff are under, how many more members of staff will be needed at the end of the grace period and that the recruitment process will take even longer. The Minister has not opened that recruitment. Have you carried out a health and safety assessment on current staff working under those conditions, and what is that assessment?

Dr McMahon: Thank you for that question, Clare. I will let Robert talk about how we continually assess health and safety [*Inaudible owing to poor sound quality.*] I am just checking that you can hear me.

Ms Bailey: You are coming and going, Denis.

Dr McMahon: I will stay exactly where I am, and, unfortunately, you will have to bring me closer to the screen. Anyway, Robert can talk about the continual health and safety assessment that is taken forward. It is something that we discuss regularly. We discussed it as recently as Monday. In the same way that we talk about health and safety issues more generally, this is a part of that. We will not be putting our staff at risk by overloading them with work in a way that leads to health and safety risks. It is not our intention to continue with that. I have made it clear to my team that I expect us to do everything that we can to comply. However, we will do it in a way that is safe for staff, and, if we cannot do that, that will be a problem.

I do not think that you were making this point, but just in case anybody else makes the point, I will say that there are wider issues going on in society at the moment. A lot of issues are now coming together in different ways. Our specific decisions about doing physical checks or not, I would argue, have not contributed to any wider issues. Frankly, if it has, I am afraid that it is part of the fact that we have to take health and safety decisions, and that is all that we can do. We cannot look at the wider politics.

Robert, do you want to say something about staff health and safety in terms of workload?

Mr Huey: It is an ongoing process. My group's health and safety officer is in the ports on a regular basis talking to staff as well as looking at the facilities. The fact that we have pulled staff off and told them to go home for a while shows where managers' centre of gravity is on these things.

The first rule of any employer, particularly in the Civil Service, is that your work should not make you sick, and we will try not to make our people sick, if we can possibly manage it. That is not to underestimate your point about the staff, Clare, and I thank you for that. I reassure you that we are doing the best that we can to keep our people well.

Ms Bailey: On that one, how much contact or how many meetings have you had with trade unions on the issue?

Mr Huey: We meet regularly. Brian Dooher, my deputy, leads on that for me. Meetings with trade union side are regular. A number of issues with the staff's terms and conditions are being worked through with the unions. The trade union side is regularly with us discussing many aspects of the portal delivery. We work closely with the portal and have done so right through the development of the sites and the processes and protocols that we use.

Ms Bailey: Great. I go back to 1 February, when the Minister was so concerned about the threat and risk to staff that he removed them from their jobs. Given the current conditions that exist, with staff being under-resourced and overworked, what is the Minister's assessment of the impact of that on their health and safety?

Dr McMahon: The Minister *[Inaudible owing to poor sound quality.]*

The Chairperson (Mr McAleer): Denis, you are breaking up again.

Dr McMahon: Sorry. Can you hear me now?

The Chairperson (Mr McAleer): Yes.

Dr McMahon: The health and safety assessment is for us as officials. It really is for us to make sure that we adjust the workloads accordingly. The challenge there is that we need to adjust the workloads particularly at the end of the grace periods. If we need to adjust the workloads and we do not have the staff in place, that brings us into a problem with compliance at that stage. At the moment, we are working on the basis that we will do the work necessary, as far as possible, to achieve compliance, but we will not put staff's health and safety at risk. That is not our intention. Robert, I do not know whether you want to add to that.

Mr Huey: No. That is a fair summary of the situation that we find ourselves in.

Ms Bailey: Am I right to assume that the Minister is well aware that staff continue to be overworked, under-resourced and not facilitated in terms of resource? His decisions should be making their conditions better; he is aware of that. He is aware that, come the end of the grace period, the

recruitment will not have been done and that staff will be under even more pressure, yet he is refusing to take any action to mitigate people's conditions right now.

Dr McMahon: The only thing that we can comment on in that is to say that the Minister is aware of the *[Inaudible owing to poor sound quality.]*

Ms Bailey: OK.

Dr McMahon: I would not want to put —. It is not *[Inaudible owing to poor sound quality]* the Minister's position, but his position would be that there needs to be an adjustment to the protocol. That would be his position on that.

Ms Bailey: So we can change the protocol, but we cannot make conditions for staff any easier, and yet, back on 1 February, when there was an assessment of a low-level threat, he was so concerned about their health and safety that he removed them from work.

Dr McMahon: I think that *[Inaudible owing to poor sound quality]* the political analysis as I can really. *[Inaudible owing to poor sound quality.]* He is aware of the *[Inaudible owing to poor sound quality.]*

Ms Bailey: Thank you very much.

Dr McMahon: *[Inaudible owing to poor sound quality.]*

Ms Bailey: Thank you.

Mr M Bradley: Thank you, gentlemen, for your answers this morning. It is important that we understand that we are questioning officials today with the benefit of hindsight. In my experience, any threat, verified or otherwise, has to be treated as a viable threat, and the protection of life has to be a top priority until that threat has been validated or checked. Had I been in the same position as the officials, my thoughts would have been about the health and safety of my staff. That would have been paramount. I would have acted no differently from the officials, and I make that clear. As someone who was involved in a no-warning bombing on Railway Road in Coleraine, I would have been grateful for a warning that could have saved lives that day. As it was, a message to a print room prevented me from being at the spot where the bomb detonated. I speak from experience when I say that the officials made the correct call that safety is paramount. However, all of that has been well documented and well answered, so I will move on.

I have concerns, which have been mentioned, about the lack of availability of vets at the ports and the difficulty in recruiting vets to provide assistance at the ports. In particular, what are the main threats to NI/GB trade because of delays in being able to carry out veterinary checks at our ports?

Mr Huey: As you know, we are under the constant supervision of EU veterinary colleagues. What we are achieving or failing to achieve in relation to the numbers and quality of checks that we are carrying out is well known. That is reported and discussed weekly with the Commission. At the moment, we have reached a peak where we were able to do 38% of the physical checks that we should have been doing, but there have been times when we have been down as low as the mid-20s for the checks that we should be doing.

So far, we are ensuring that we are doing the checks that achieve the objectives of the checks in the first place, which is to protect the internal market — the single market of the EU — from real or perceived threats from GB product. That is what we are doing. We are making decisions on the front line as to what we prioritise and what that 30% of checks that we are doing contains, and we are ensuring that we are doing the important ones. That is why we do all live animals and all of some categories of plants. In a threat-risk assessment of the risk to the internal market for plant health, animal health or public health, those are the places on which we think that we should concentrate.

If we increase the number of checks that we have to do, without an increase in the number of staff or an improvement in the facilities, that increases the number that we cannot do, so we continue to do that risk assessment. The whole basis of the checks that we do is to protect the single market. That is what we will try to achieve from the checks that we carry out. There may come a time when the Commission decides that we are not doing enough or that our efforts are not enough. Then, the Commission will have to take whatever action that it feels appropriate. At the moment, however, I feel

that there is a recognition that we are doing our best and that we are working under difficult circumstances. The Commission has given me no indication that it is close to that sort of a resolution of the issue.

Mr M Bradley: Thank you very much, Robert. I wanted to pick up on something that Clare said, because I was concerned about the health of the staff who are working at our ports, not just now but, as you have said, when the checks could rise to as many as 10,000 a week. However, you have answered that to Clare, so thank you very much for that.

So that we can get a better understanding of the number of checks between NI and GB, can you tell us what the comparison is with GB/EU or with the EU and any other third country? Is the EU being particularly obstructive with GB as a third country, more so perhaps than with any other third country that is trading with the EU?

Dr McMahon: Do you want to answer that, Robert? *[Inaudible owing to poor sound quality.]*

Mr Huey: Having spent all day yesterday, I would not like to take your efforts.

My front-line staff gave me a very simple indicator yesterday, which is that we are doing 325 documentary checks a day. I believe that Rotterdam does 125, so that gives you an idea. The number of CHED-Ps that we are doing at the moment represents about 20% of all the CHED-Ps that are done anywhere in the EU. We are the biggest, so we do more than France, which is second, or Germany or Spain or any other country. Northern Ireland, with its 1.8 million people, is doing more import checks for products of animal origin than France. That puts it into perspective for me. You can argue about the detail of the figures, because they are not 100% accurate, but they are fairly indicative of the challenge that we are trying to address and are, frankly, the reason why I am managing to do only 30% of the physical checks that I should be doing according to the regulation.

Mr M Bradley: Thank you very much, Robert. I do not underestimate the staff at all. I appreciate everything that you do down there, and you deserve full credit for your hard work and for doing what you do.

I have one last question, Chair, if possible.

The Chairperson (Mr McAleer): Yes.

Mr M Bradley: You stated that the infrastructure to facilitate port checks would possibly not be in place until 2023. How do you plan for such facilities while negotiations are ongoing between the EU and the UK? Is any clarity emerging on the final outcome, or are negotiations too fluid to be able to plan properly? The Department is not being placed in a very good position to plan for facilities at ports. What are your thoughts on that?

Dr McMahon: You are absolutely right: there are issues that still need to be bottomed out. As we said before, we have three months of data. It is almost impossible to project accurately how the workload will increase at the end of the grace period, and one of the reasons for that is that we do not know how businesses will react. One of the reasons why we are doing so many CHEDs at the minute is that this is a uniquely integrated economic system, and it is very different from traffic across borders between EU countries. That is what the big unknown is: this is quite different from anything else that anybody is trying to do. There is a lot of work to be done around that, and part of it will definitely be influenced by the discussions that are happening at a political level. There are various legal developments under way, which are another issue. Those things add uncertainty and make it more difficult to plan a major infrastructure programme, because it all comes back to the demand and the ability to deal with that through various measures, such as the digital assurance scheme. I commend DEFRA again, which is leading on fantastic work on that and has involved us as far as we can be involved. Even with all of that, it does not necessarily reduce the number of CHEDs that have to be approved, and that is where the big challenge is, because that leads to estimates of the number of physical checks, which in turn leads to the estimates of the size and nature of the infrastructure required. If they do not mind, I am happy for Robert or Mark to, as necessary, correct anything that I have said or add to it.

Mr Huey: And then there is COVID. Are we planning facilities that are COVID-ready for the next five years? Do we need big offices, small offices or no offices at all? There are so many fluid parts in all this that it is really difficult, which is why it is wise, as Denis said in his summary, to stop and rebase

this thing and to try to work out, now that we have data and a little bit more knowledge, whether we are building the right thing.

The Chairperson (Mr McAleer): Thanks for that. Before we move on to Rosemary, I am going to have to step out. Philip is going to take over the Chair. I have a meeting with the NI Affairs Committee, so I am going to pull out and start getting my notes and stuff pulled together for it. So, thanks very much. Philip will take it from here. Rosemary is next on the list. Thanks very much everybody. Take care.

Dr McMahon: Thank you.

(The Deputy Chairperson [Mr McGuigan] in the Chair)

Mrs Barton: Thank you very much for your presentation and your comments so far. I want to go back to the shortage of staff. As a number of other members have said, I am concerned about the health of the staff and their welfare, particularly in relation to the amount of work that they will be expected to undertake if the derogations etc are withdrawn and their workload increases. You spoke of the increase in the number of checks up to the 10,000 mark. If that is the case, how long will goods be expected to wait at the ports? How long will cattle in the importing of livestock be expected to wait at the ports etc to get through the number of checks that will be necessary?

Mr Huey: That is for me. Thank you. The increase in the number of checks will be on retail goods, which, to me, are low-risk. Since the beginning of this, I have been working on three principles: first, the welfare of staff; secondly, keeping product moving for supermarkets and for retail and raw materials for manufacturing; and, thirdly, keeping to the law. Those are the three things that I have been trying to do.

On the animals coming through, there will be no increase for the animals, and we always prioritise the animals and their wait to make sure that animal welfare is looked after. One of my primary roles, as Chief Veterinary Officer, is to make sure that animal welfare is not compromised. We will continue to follow the principles of trying to keep freight moving while trying to keep to the law.

The potential hold-up is around the supermarket goods, rather than around animals or plants. The complexity of the consignment that is in a freight load for a supermarket made the introduction of a grace period necessary to give supermarkets time to think about this and to give us time to think of electronic and other process solutions to try to streamline it and to apply a risk assessment as to what needs to be done with greatest priority. That is a meandering answer, so apologies for that, but I think that I got most of it in.

Mrs Barton: Thank you. That is the veterinary end; you can only recruit who you can recruit. What is the situation with plant inspectors? You said that there is a shortage of them. Do you have any plans to try to increase those numbers? Where will they come from?

Mr Huey: The plant inspectors are under different line management, not under mine, but I know the difficulties because they are similar to those that I have. There were some temporary plant inspectors in place who have now left, and, in order to backfill, the management in that particular unit need to move staff from their normal duties in field service into the port, and that is proving quite difficult to do, though the process, I think, is ongoing. It highlights again that it is not just vets; there are specialist posts across a number of places where staff are needed. The local authorities will have similar problems with EHO numbers. There is a finite supply of environmental health officers who carry out their checks on high-risk products that are not of animal origin, and I know from speaking to them that they have similar concerns about where the additional staff will come from.

Mrs Barton: I know that the plant inspectors are not within your remit, Robert, but I understand that there is also a problem in GB in relation to when plants are being sent over to Northern Ireland. The inspectors have to go to the various nurseries and have the soil etc checked. That is a major problem in getting plants over here.

Mr Huey: That is similar across all the certification areas in that a huge number of professionals are required to produce certificates and then, on my side, I need a huge number — well, a large number — to check them. It is all part of the same problem, and you are right to identify it.

Mrs Barton: Thank you.

The Deputy Chairperson (Mr McGuigan): Thank you very much. I do not have anybody else wanting in to ask questions. Do Denis or Robert want to make any concluding remarks? No.

Thank you for coming. I note that you were here to talk about the Committee inquiry, but a number of members used the opportunity to ask lots of other questions. We stayed within the time schedule. Again, I thank the officials for attending. You are free to go.