



Northern Ireland  
Assembly

Committee for The Executive Office

# OFFICIAL REPORT (Hansard)

United Kingdom Exit from the European  
Union: Mr Declan Kearney and Mr Gordon  
Lyons, Junior Ministers, The Executive Office

26 May 2021

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Mr Colin McGrath (Chairperson)  
Ms Martina Anderson  
Mr Trevor Clarke  
Mr Trevor Lunn  
Mr Pat Sheehan  
Ms Emma Sheerin  
Mr Christopher Stalford

**Witnesses:**

Mr Kearney	junior Minister
Mr Lyons	junior Minister

**The Chairperson (Mr McGrath):** Ministers, you are very welcome. Thank you for coming along today to give us an update. I can pass over to you to give us an oral briefing, after which we will move to questions. Thank you very much indeed.

**Mr Kearney (Junior Minister, The Executive Office):** Go raibh maith agat. Is é bhur mbeatha, a chomhaltáí uilig ar líne an tráthnóna seo. It is good to see you all again. Thank you.

To kick off, Gordon and I will provide a short update on EU exit issues since we last met. At our last appearance before the Committee, we advised that the co-chair of the Joint Committee, David Frost, and his EU counterpart, Maroš Šefčovič, were continuing to discuss issues associated with the protocol and that they had agreed to further engagement with our local business groups, civil society and other stakeholders. The Committee will be aware that, in week commencing 10 May — the week before last — David Frost spent two days here, during which he met in person a range of businesses from across various sectors, as well as community representatives. We welcome that first official visit here by David Frost, which gave him, I hope, an opportunity to hear directly from our local traders about the challenges that they are facing.

Local businesses also welcomed that visit, but they have asked for more in-depth and regular engagement on the challenges that they continue to face. In their ongoing engagement with David Frost and Maroš Šefčovič, business representatives have consistently stressed the need for stability, certainty, simplicity and affordability, which is a message that we have discussed on many occasions in these Committee sessions, and while there remain both technical and political dimensions to the range of issues that need to be addressed, we hope that, in their ongoing discussions, the British

Government and the EU will focus on solutions that can address the concerns of our local businesses. The Committee may be aware that the British Government and the EU are discussing a draft work programme as they seek an agreed way forward. For our part, we continue to engage as necessary to ensure that both the British Government and the EU fully understand our unique position and the impacts, and we will continue to reiterate the importance of engaging with our local stakeholders.

The Committee will have seen recent media reports in relation to the supply of medicines. Officials in the Department of Health have been working closely with their counterparts in the Medicines and Healthcare products Regulatory Agency (MHRA) on that issue, and it is important to ensure clarity of understanding across all interested parties, both on this particular issue and on the wider issue of the approval of new drugs. We are all in agreement that the priority is to ensure equitable access to new drugs for all our citizens, and we hope that any concerns can be quickly resolved.

As an Executive, we also continue to review the impact of the end of the transition period, and we will keep working to identify, assess and seek to resolve issues that are having an impact on our businesses and our community. Our officials are in regular contact with the Trader Support Service on the particular challenges that businesses are facing in relation to customs, as well as on the special customs processes that could be of assistance. Officials are also engaging closely with the Cabinet Office on a range of issues.

Before I hand over to Gordon, Colin, if I may, I will associate myself with your remarks about Doug Beattie. I have always found Doug to be a consistently very courteous colleague on these calls. His contributions have always been thoughtful. He has been interrogative but courteous and pleasant in how he has conducted his business and hosted myself and Gordon. Thank you.

**The Chairperson (Mr McGrath):** OK. That was almost a perfect handover to Gordon, who had dropped off the call and is back on again. Are you good to go, Gordon?

**Mr Lyons (Junior Minister, The Executive Office):** Yes, if you can hear me.

**The Chairperson (Mr McGrath):** Yes.

**Mr Lyons:** Apologies. I was on my laptop when it decided to do an automatic update, so I had to get my iPad out.

Today, I will update the Committee on the formal engagement between the UK and the EU, including the meetings of the joint consultative working group (JCWG). I will also provide an update on the EU settlement scheme. The Committee may be aware that the Government had indicated that they would respond by mid-May to the EU's letter of formal notice on the Government's unilateral extensions to the grace periods. We understand that the Government sent a response on 14 May, and we are keeping that legal challenge under review.

The Committee will also be aware that the First Minister and deputy First Minister attended the meeting of the Joint Committee on 24 February, when the UK and the EU agreed that their teams should engage in further technical discussions and come back to the Joint Committee. As Minister Kearney has advised, those discussions are ongoing, so the next meeting of the Joint Committee has not yet been scheduled. However, the joint consultative working group has now started to meet monthly, as outlined in the protocol. It held its third meeting on 12 May, which focused on operational issues, in particular the mechanics of exchanging information between the European Union and the UK. The Executive were represented by an official from TEO, and processes are in place to ensure that, once the EU formally communicates information to the UK, it will be disseminated to relevant Departments for information and action as required.

It is important that we are also included in the Trade and Cooperation Agreement governance structures at every level. Officials continue to engage with the UK Government about the Executive's participation in those structures, which we hope will progress now that Ministers have been put in place in Scotland and Wales. Work also continues on common frameworks and legislation, including the development of a system to support the tracking and monitoring of legislation contained in the protocol. The Committee will also wish to note that the Cabinet Office published its latest report on common frameworks last week.

The Committee will be aware that we are approaching the deadline for the European Union settlement scheme, which will close to new applications on 30 June 2021. EU, EEA and Swiss citizens living here

make a valuable contribution to our economy and our wider society. To help increase awareness of the scheme and encourage all who are eligible to apply, the Home Office media campaign has been running since the beginning of February. We are supplementing that with our own local campaign, which, as well as raising awareness of the EU settlement scheme, seeks to show the contribution that EU citizens make to life here. The advertising features EU citizens who have made their home here, and the messaging encourages friends, family and colleagues to make sure that EU citizens know how to apply to the scheme and where to find more information.

We will be grateful for any help that members of the Committee can provide to ensure that the message reaches their constituents. The Executive Office has also been working with the advocacy agency Advice NI and the South Tyrone Empowerment Programme (STEP) to support the work that is ongoing in local communities. Officials will continue to engage with the Home Office to encourage an appropriate and flexible approach to those needing to make a late application to ensure that they can continue to live and work here.

I hope that that provides a useful and helpful update on EU exit matters.

**The Chairperson (Mr McGrath):** OK. Have you both finished? Yes? Thank you very much for the update, it is appreciated. Obviously, one of the things that I want to take an angle on is the protocol. In essence, we have heard a lot of noise about the protocol and its impact. To be fair, it could increasingly be said that we are only hearing about the negatives. I noted that, last week, Derry Chamber of Commerce said that about 80% of those who participated in its survey said that they were not experiencing any significant impact as a result of the protocol. We can all agree that that is a positive thing. I want to maintain that positive theme, as this also came up in conversations with various Committees in past weeks. Can the Ministers — Minister Lyons in particular — see any positives from the protocol? Setting aside the negatives, are there opportunities for businesses here? Are there any positives that we can discuss about the protocol and its implementation?

**Mr Lyons:** I can obviously see the benefits of having access to the EU single market. Of course that puts us in a good position, and I will not be churlish about that, but you are asking me to do something very difficult, which is to leave aside all the negatives that come with the protocol. Although there may be some positives from EU access, they do not come close to outweighing the negatives that we are facing with east-west trade as a result of the difficulties that have been caused. I do not want to be churlish about it. I do not want to seem always to be banging on about the same issue, but it is the fundamental one, and it is the one that needs to be addressed. We do a huge amount of trade east-west — more than we do North/South and more than we do with Europe — so we need to focus on sorting that issue out and making sure that trade will not be hampered in the way that it currently is.

Remember that Northern Ireland and the UK are very integrated and dependent; all those things are massive. It is even acknowledged in the protocol that they want to limit the amount of checks, which they have failed to do, and that they want to ensure ease of trade between Great Britain and Northern Ireland, which has failed. The importance of those things is recognised in the protocol itself, yet they have not managed to achieve them. Fundamentally, those issues need to be fixed. That is my view, based on my experience and the correspondence that I get from people, not only in my constituency but beyond, about the problems that the protocol is causing. That means that it is still the number-one issue that we need to be prepared to address.

**Mr Kearney:** I think that a balanced approach needs to be taken. We have heard a lot of talk in recent months about the need to de-dramatise language and scenarios. I would go slightly further. We have come to a point where the protocol itself has, without any foundation, become weaponised. That is creating the negative political repercussions in our society at this time.

You consider the manner in which Brexit was brought about. You consider that the referendum was five years ago, and you rehearse the passage of time since then. You look at the fact that Theresa May's Administration brought forward the option of the backstop, which, arguably, was a much better alternative to the current protocol, but Theresa May was made to fall on her sword over the issue of the backstop. We have had a further negotiation away from the backstop and into the protocol, and that was with a view to getting the hardest Brexit possible.

The European Commission and the European Union recognise that this is a special and distinct place. They are much too heavily invested in our peace process not to accept that this is an exceptional region. That is why we saw the solidarity that was shown and the focus and attention that were brought to bear by the European Commission on developing the protocol as a mechanism to mitigate

the worst effects that would be imposed upon us as the result of a hard Brexit. We are now five months into trying to work our way through the implementation of the protocol. I am not surprised that there have been frustration, blips and difficulties. There have been difficulties; I will concede that that has been the case. However, this is five months into an international treaty that it has now taken over three years to negotiate in two iterations, so is it any wonder that we are still in the process of working out how there can be a smooth operation of the protocol? Step back from that reality. Step back from the fact that it has been wrongly weaponised for, in my opinion, quite unjustifiable political reasons. What we need to see is the bigger strategic picture. The fact is that this region, the North, now has access to dual market opportunities. That point has been accepted and conceded by Invest NI. It is talking about the prospect of 30 foreign investors now looking at the North in the context of the new trading realities.

There are 27 other members of the European Union. They pay billions into the European Union to have the privilege of membership and access to trade within the single European market. The North has now been taken out of the European market but still has access to the European market. What is not to like? In that context, we have to double down and work very hard to ensure that stability and certainty are guaranteed to our local businesses and to our broader community; that apprehensions, which, in some instances, have been manufactured, are assuaged and resolved; that we take the constitutional bitterness that has been injected into this issue out of the issue; and that we start to concentrate strategically on how we can ensure that local businesses in fact become much more profitable as a result of access to both the internal market of the British state and the single European market of the European Union.

There is a difficulty in that, if you keep repeating a false logic, you start to believe it. We have to cast aside the false logics and start to recognise the opportunities and embrace those opportunities. Just last Thursday, I spent a significant amount of time with a haulier in my constituency who, in a completely dispassionate way, set out all the opportunities that are now opening up for that business. It is now looking at increased profit lines, the prospect of greater expansion, opportunities that did not exist to continue to trade North/South and east-west, and using the Southern state as a jump-off point to maintain the free flow of trade that it has enjoyed on an east-west and west-east basis from continental Europe back into the North and onto the island of Ireland. We have to see the bigger picture in all of this.

My last point is this: I thought it really notable that, just about two weeks ago, Julian Smith, former Secretary of State here in the North, attended an Institute of International and European Affairs online seminar along with our colleague Claire Sugden in Dublin. They have different perspectives on all these issues, as you might expect. Julian Smith, not least a former Secretary of State and member of the Tory party, pointed out that he can see very significant strategic, business and investment opportunities for the North arising from the protocol, once we get it properly bedded in. Claire Sugden broadly agreed with that.

**The Chairperson (Mr McGrath):** Some of what we are hearing is about the positives. It is incumbent on the Executive as a whole, and the Executive Office specifically, to start increasing the noise about the positives as a balance to those that are the negatives. I have yet to encounter anybody who says that the protocol is perfect. Mind you, I meet a significant number of people who will say that Brexit was unnecessary and we should not have gone there. However, the protocol is a result of Brexit. It could be looked upon as being a little bit like an onion: you have to tear away, layer by layer, with the technicalities and problems that are there, and try to resolve them. However, the crucial point is that, when you get to the middle of that onion, there is no constitutional crisis for people in there. That has been injected by some of the commentators and some of those in the *[Inaudible owing to poor sound quality.]* Minister Lyons has said that there are problems and they need to be fixed, and I agree with that, but it is not a solution to simply say, "Scrap the protocol", and try to build around it a constitutional crisis. We have seen the repercussions of that on the streets.

I agree with you, Minister Kearney, that former Secretary of State Julian Smith said that there had been a huge uptick in enquiries from overseas companies. The seafood sector says that it can see significant opportunities because it is able to get much easier from west to east than from east to west. Therefore, it sees the opportunities. If multinational companies can come in and locate here, they will get access to dual markets, and that is good.

Can I ask you, as a Department —?

**Mr Lyons:** Can I just come in on this? We are in danger of living in a fantasy world and ignoring the real issues that are out there, and especially the feelings in the unionist community. This is not a

manufactured constitutional crisis. It goes to the heart of what many unionists believe and profess and their understanding of what the Union is. We need to accept, first, that there has been a breach of the Belfast Agreement. People refuse to accept that, but the position of Northern Ireland within the United Kingdom has changed, and the cross-community consent mechanism has been blown to bits on this issue. For it to be implied that this is in some way manufactured or not real is wrong. The feeling out there is one of anger. People have been let down by our Government, and Northern Ireland is being treated differently. This does not help to maintain the peace, as many in the EU and Irish Government have said. It threatens it, because it threatens the Good Friday Agreement. It threatens our place in the United Kingdom and does damage to the UK internal market. I can understand people wanting to have different perspectives on Brexit and the protocol and all the rest of it, but let us not underplay the real concerns and the damage that it is doing, not just to the constitutional position of Northern Ireland, but to the economic and social fabric as well. I am always happy to have these debates and discussions, but the protocol is fundamentally flawed. A few tweaks here and there will not help it. It goes to the heart of significant constitutional, social and economic issues.

**The Chairperson (Mr McGrath):** *[Inaudible.]*

**Mr Kearney:** Can you hear Colin?

**Mr Lyons:** No. I cannot hear him either, Declan.

**The Chairperson (Mr McGrath):** Sorry, that was my fault.

I was saying that I felt that the tone to your second answer was significantly different to your first, Minister Lyons. However, given that we have acknowledged, across all our interactions, that there are positives out there, what is the Department specifically doing to articulate and amplify those positives, working with businesses to make sure that they are able to interact with the positives, be it economic life or otherwise, to ensure that we maximise the benefits that we can get from them?

**Mr Lyons:** First and foremost, we cannot ignore the problems that are there. That is where our focus needs to be: on addressing the issues that are of most concern to people right now and trying to sort out those problems. That is what people expect us to do. We must deal with these really pressing issues that people are currently facing. It is businesses that are under pressure, cannot get supplies in or are burdened with so much extra paperwork, compared to what they had before, for bringing in products that are going to remain in Northern Ireland and have no danger of going into the EU single market. Our focus, right now, has been on limiting the negative impacts and outworkings of the protocol.

**The Chairperson (Mr McGrath):** Declan?

**Mr Kearney:** I will come in on that point. There is a division of opinion on this issue within the Executive Office, so neither Gordon nor I can represent an agreed corporate position. It is fair that we acknowledge that to the Committee so that, with the caveat that we do not speak on behalf of the Executive Office, Gordon is at liberty to make the points that he made, for example. I have different points to make, which I will touch on briefly. My focus has been on engaging with local businesses and stakeholders across society, both within my constituency and further afield, through our major employer and business organisations, to ensure that they are equipped with as much information as possible, that briefings are provided and that they have the details. I believe that they will then be in a position, as businesspeople who are problem-solvers and change champions in their own right, to work out, in an un-sculpted way, how those opportunities can be shaped. We have to ensure that they are given access to as much information as possible. That is why I am an advocate and a proponent for increased engagement with our business sector and with civic society in the North by the European Commission and, of course, the British Government.

It would be remiss of me not to acknowledge that there is clearly dismay within some sections of our society. That dismay exists because those citizens have been let down by their political leaders. I find it remarkable that a narrative has been put up to justify the scrapping, dumping or removal of the protocol on the basis that it poses some kind of immediate and present danger to the Good Friday Agreement. That narrative has come from individuals, in this society and in England, who were not talking about the repercussions for the Good Friday Agreement in the lead-up to June 2016, when the referendum took place. No one was talking about the clear and present danger or the potential ramifications for the Good Friday Agreement in the lead-up to the decision to convene that referendum. That was not a feature of the referendum debate. In this society, it was raised by my party

during the referendum debate, and I know that your party was directly involved in highlighting that the agreement could be very badly damaged if we ended up with a hard Brexit. Now we have a hard Brexit. Most of the parties in the Executive, most of the MLAs in the Assembly and most of the political and civic leaders in our society are now focused on ensuring that the protocol is made to work in a way in which business has certainty and stability and where we concentrate in a very objective way on removing difficulties and problems that have arisen and that we absolutely maintain the integrity of the Good Friday Agreement in all its parts. That extends to North/South and east-west. For those who have become new-found champions — defenders, if you will — of the Good Friday Agreement, that cuts in different ways. We have to be absolutely focused on ensuring that we protect strand one, strand two, which is North/South, and strand three.

There will be a meeting of the British-Irish Council next week. All Ministers should be in attendance and participating in that forum. There will be an opportunity for us to address some of those issues collectively across all the relevant Administrations. The following week, there will be a meeting of the North/South Ministerial Council plenary session. I hope that all Ministers from the North attend that. Not to do so would be a potential prima facie breach of the ministerial code, and there has been enough messing around with attendance at sectoral meetings of the North/South Ministerial Council of late. It is time for all of us to buckle down and work all parts and strands of the Good Friday Agreement for the betterment of all in our society. Let us deal with the technical difficulties around the protocol; let us open up opportunities and optimise them. Where there are concerns and fears in society, which I think have been wrongly whipped up by some who should know better, then let us engage. Let those of us who have a progressive view on how we can move forward in society within the new trading realities engage, reach out and try to assuage some of those concerns and apprehensions.

**The Chairperson (Mr McGrath):** Thank you. I will conclude by highlighting from those two answers that there are positives but we are focusing on the negatives. I think that sometimes a statement can contain an answer. If we are wondering why large numbers of people in certain communities have a negative view of what is happening, maybe it is because we are constantly focusing on the negatives, and maybe if we started to articulate the positives, it would provide a bit of balance that may allow a more rounded discussion in all communities and then help us all to move into that problem-solving mode.

**Ms Anderson:** Thank you to both Ministers for your contributions today. I have to say that Brexit has been an unmitigated disaster, and we said that that would be the case. The protocol is the least-worst option. As the only MEP in the North who voted for it, along with 650 MEPs, I called it, at the time, an ugly compromise, but it was one that gave us a degree of special status.

Minister Lyons, I hope that you will not mind my mentioning some facts and statistics that NISRA has presented to us. I have heard you talk about this before, so, for your information, the total trade from the North to the South to the EU and the rest of the world far exceeds the trade to Britain. A greater number of businesses in the North sell products from the North to the South than go from the North to Britain. That is not to diminish or take away the concerns that people have about getting a harder border in the Irish Sea. We knew that there was going to be a harder border somewhere, and, as the head of the delegation for Sinn Féin in the European Parliament, I know that we were working very hard to ensure that it did not come to land on the island of Ireland. We are where we are because of Brexit, but we were always going to have a border somewhere.

Can I get a sense from you of what the Executive's position is on the implications of Brexit for the Executive in what I call financial asset stripping of the Executive's Budget? We know that we are facing the loss of the European social fund (ESF) and the European regional development fund (ERDF) yet we have had no confirmation at all from the British Government that they are going to replace those from the Shared Prosperity Fund, although they have been telling us that they will. We have heard nothing other than promises.

Britain's Internal Market Act, which, again, emanated from Brexit, gave Whitehall new financial assistance powers over the North. That Act has established three funds that, unfortunately, cut across the responsibilities of several Executive Departments. Before anyone who may be listening thinks that the three new funds will be additional, as some people had hoped, those too are financially asset stripping the Executive's Budget by £70 million a year. Are the Executive speaking with one voice? Is there one position with regard to the financial asset stripping of the Executive's Budget by Brexit?

**Mr Lyons:** I am happy to go first on that, Martina. On your earlier comments, I do not think that there is any point in me going over this again. We have had this discussion and argument many times before, and I doubt that we are going to bring any new light to it.

Let us move on to the replacement of EU funding. As an Executive, we continue to consider the impact of that, and the UK Government, of course, intend to use the financial assistance powers in the UK Internal Market Act to deliver those funds. The Shared Prosperity Fund has been promised as a replacement for European structural funds. The detail on that, of course, continues to be limited, but we know that it will be worth approximately £1.5 billion every year across the UK and that it will be competitive in nature. We expect the prospectus and investment framework for the Shared Prosperity Fund to be published before the summer recess and allocations to be subject to the 2021 spending review. The Executive were promised a role in the governance structure for the fund, but that role has not been clarified yet. I am happy to hand over to Declan for additional comments.

**Mr Kearney:** Thanks, Gordon. On the broader point, I am very concerned about the financial repercussions that will flow in these circumstances. As we move out of COVID into economic recovery, with all the pressures that that will place on public services and the public purse, my great fear is that, potentially, we will see a new era of austerity on the horizon. We will not be able to rely on the funding that we previously had as a kind of cushion against some of the greater excesses of cutbacks that have been inflicted on this society at every level in public services, community regeneration and the maintenance of grassroots community infrastructure, to say nothing of maintaining a lifeline to our cash-strapped farming community. The financial assistance powers in the Internal Market Act are an elephant in the room that needs to be exposed, because we are looking at reduced funding in net terms.

The detail of the Shared Prosperity Fund is still very limited, as Martina said. The fund was promised as a replacement for EU structural funds. The pilot for the Shared Prosperity Fund, the Community Renewal Fund, was announced at the spring Budget as being £220 million globally, in total. Only £11 million has been allocated and ring-fenced for the North. However, that is targeted at the things that previously benefited from ESF and European regional development fund support. That sum is far less than we would or should reasonably have expected to receive. It will not be new money, and it will definitely not leave the Executive and the Departments in a position where they can rely on something to compensate for what has been withdrawn.

The Levelling Up Fund that has been much vaunted by the Johnson Government is not a replacement for EU funding. There is funding for three elements: transport, town centre regeneration and cultural investment. Of those three, however, it has been indicated that the Executive's access is only to transport. Although we have been included as one of the bodies that can apply to that fund, it is notable that we have been excluded from applying to all the others. The prospects are very worrying and, arguably, bleak. We will be left in a situation where, in net funding terms, the Executive and our society will not be able to rely on the quantum that we previously enjoyed whilst we remained in the European Union. That should be a cause for concern right across society.

**Ms Anderson:** Yes. It is alarming, to say the least, given that, as a region, we were a net beneficiary of EU funding. From all that you have said, we can expect that there will be a number of groups, organisations, families and households in receipt of EU funding whose wallets and purses will be robbed by Brexit as a consequence of this unmitigated disaster. It is worrying to hear about that amount of funding being withdrawn from the Executive.

When you were here previously — I think that it was five weeks ago — we were told that the DUP was blocking the passage of the common frameworks. Gordon, you committed to getting us an update on that. There are 21 common frameworks to be approved by the Executive. From our understanding from the previous meeting, the DUP needed to sign off on those. Will you give us an update? The pack that we received from your officials did not contain an update on the position on those common frameworks.

**Mr Lyons:** My understanding, Martina, is that progress has been made on those. We had hoped to have that with you for the written briefing; that is why it has been held up. We apologise for that. My understanding is that we need further clarity on a few issues within the Department of Agriculture, Environment and Rural Affairs. There has been a bit of back and forth with the Department on that. I hope that that update will be with you soon. As you will understand, they are extremely technical and have the potential to have huge implications for Northern Ireland if there is divergence from the rest of

the UK. Those are being looked at. It is not the case that the DUP is blocking them. I will be more than happy to share that information with you.

**Ms Anderson:** The Committee needs to get that, Chair, because some of them are legislative. They need to be put on the legislative time slot. We know that regulatory alignment across the island, and with the EU, is required. It was supposed to be done last year, and we are supposed to be in the process of taking them forward now. Gordon, we would appreciate getting that update ASAP.

**Mr Lyons:** Yes. The Committee should have a proper role in being able to scrutinise them as well. That is why the process is not ideal. The FM and DFM are supposed to give provisional assent to them, and then they are to go to the Committee, only to come back again. It would have been preferable for the Committee to have had them in the first place. However, that is the procedure. I am more than happy to keep the Committee updated on that, Martina.

**Ms Anderson:** Chair, we should try to pursue that.

**The Chairperson (Mr McGrath):** Perfect. Ministers, we have another four members who wish to ask questions. If they are quick-fire, there might be a couple of questions, but, if they are slightly longer, only one, or maybe two. It would be appreciated if you could keep the replies as concise as possible to allow as many questions as possible. Up next, we have Trevor Lunn.

**Mr Lunn:** Thanks to the two Ministers for their report. I will go back to the briefing that they gave us at the start of the meeting. I do not wish to prolong the agony, but you would have thought that they were talking about two different topics. Declan gave us a fairly upbeat report. He started off with a report from Derry/Londonderry Chamber of Commerce that its businesses seemed to be optimistic about the future. Everything that he said was about business concerns and attitudes. Gordon, almost inevitably, came to the constitutional and political aspect. I do not want to downplay the concerns within the unionist community — they are there, obvious and given — but I would like Gordon to forget about that aspect of it, which I know will be difficult, and give his assessment of where we are with regard to the protocol and a solution to the various business problems that seem to exist. Gordon, what are the biggest remaining problems — in a business, economic and commercial sense?

**Mr Lyons:** I am happy to do that, Trevor. I mentioned economic issues. There are economic, constitutional and social issues. I talked about the constitutional issues because the question was put as if they were being manufactured in some way and were not real. The economic consequences are just as real and pressing. A number of issues are coming up. The most pressing issue is the end of the grace periods and the issue for supermarkets about food products coming in. That is still a concern. That needs to be dealt with. I am glad that Lord Frost has said that there will need to be progress or else further action will need to be taken. From my time in DAERA, I can tell you that problems continue to exist there, particularly with the movement of animals. Issues that would have taken place quite easily are now more difficult. There are goods that are still not coming in. Some people have given up supplying into Northern Ireland simply because of the additional paperwork or they have not taken advantage of the help that is available from the Trader Support Service, or, having looked at it, they have just decided, "That's too much bother for us". I encourage you to get in contact with the Department for the Economy and the Agriculture Department to hear some of the issues that they are getting through.

I, as a constituency MLA, am getting them. I would be surprised if others are not. Maybe it is because I represent an area with a port and more people are coming to me about that. The main issues are about businesses not being prepared to sell from GB into the rest of the UK. There are still some issues around paperwork in particular and the level of it that is required. Those are the main issues that I am getting. That is at a very high level, but I can certainly tell you that it is not in any way all plain sailing, nor is the constitutional issue the only one that we are facing. It is very much economic as well. There is a file in my office that contains the different types of issues that people are bringing to me. It is very real.

**Mr Lunn:** Declan, do you want to comment?

**Mr Kearney:** Thanks, Trevor. The approach that has been taken, increasingly in the past few weeks, by the British Government to the issue is completely counterproductive and very regressive. It creates precisely the wrong acoustics for trying to allay concerns in our wider community about the other issues that have been injected into the equation. I distance myself from Gordon's point about those

matters not having been manufactured. To be quite frank, we saw a turning point in the whole approach to the protocol when a LucidTalk poll was carried out at the beginning of January and those results were disclosed. That detonated an effect in wider unionism, and the protocol became the scapegoat for other difficulties in the broader community.

David Frost is not helping with the approach that he has adopted. His force majeure letter is entirely wrong-headed. We have to have a meeting of minds. I spoke in the previous meeting about a lack of trust. That trust needs to be re-established and bottomed out. The European Commission and the British Government need to knuckle down and find the pragmatic and practical solutions that would have the effect of removing the greater majority of the checks that currently apply. It has been well telegraphed that there are models and templates that can be followed if the British Government are willing to accept that there can be agreement on respecting established standards for food protection and on phytosanitary controls and other measures that, in any normal situation, you would want to have in place to maintain food safety, public health and animal welfare. The Swiss have a model that deals with that with the European Union. It falls within a broader system that is known as the European Union sanitary and phytosanitary (SPS) zone. Other countries that are not members of the European Union, including Switzerland, Norway, Iceland and several others, are participants in the SPS EU zone. That ensures that there is no irritation and there are no difficulties in relation to trade flows and the moving of foods and animals from those countries into the EU and back from the EU into those countries.

There are mechanisms that can be found if the political will is there to put them in place. However, that requires political will, and it means that this particular British Government — I go so far as to say this English Government — move away from taking a very incendiary and nativist approach. They have given primacy to fabricated sovereignty issues, as opposed to looking sensibly at how we can embrace new trading realities for the benefit of all our citizens. People here, in the North, are the fall guys of all that misguided thinking that informed the whole approach to Brexit, pre-June 2016.

**Mr Lunn:** Chair, I had two short questions, and it was not my fault that the answers were quite long, but at least they were fulsome.

My second question is unconnected to the first. Can the junior Ministers tell us anything about the possible gap in PEACE PLUS funding at the end of this year? The funding groups are getting extremely nervous about it, and there appears to be a strong likelihood of a gap in funding.

**The Chairperson (Mr McGrath):** Can Ministers give us a short answer to that, please? Bear in mind that we have evidence from the Special EU Programmes Body (SEUPB) directly after this.

**Mr Kearney:** Let us agree, Colin. Autumn is the time that we have been given, indicatively, for the provision of new funding. That could create gaps, Colin and Trevor. Gordon and I will go back to the Department and talk to officials about that situation, and we will come back to you, Trevor, with more detailed information as to whether there is a danger of a lag in funding between the last round of funds and the start of the new fund.

**Mr Lunn:** Thank you very much.

**Ms Sheerin:** Thanks to Ministers Kearney and Lyons for the fulsome answers thus far. I know that some of this has been touched upon in conversations around the P-word. It has replaced the dreaded B-word, in talking about this whole process.

Can I have an assessment, from your perspectives, of the attitudes towards the UK Government and their behaviour from the European side, in particular, among the member states? We heard about David Frost's commentary, the various things that have been happening in the North/South Ministerial Council, and particular attitudes towards the protocol. Obviously, this has all been agreed and it took quite a time to agree. I wonder what your assessment of the reaction on the EU side is to this chat around the protocol.

**Mr Lyons:** I cannot comment on what other people think of the British Government's approach, Emma. I am sorry. I can do many things and answer many questions, but I cannot guess what others are thinking. I am happy to take any questions that are related to the Executive Office and our responsibilities.

**Mr Kearney:** I will share my impressions on this particular point, and Gordon's view may not be too different from mine. If you set aside your view on the issues, clearly, Emma, relations are not good.

My view is that the Tory Government had moved to a much more progressive position. I thought that they had pivoted sensibly into proper implementation of the protocol, while Michael Gove was taking the lead. However, he has handed that responsibility to David Frost. I do not think that these things ever come down to the whim of a personality, but, nevertheless, there has been a clear change in tone since Frost assumed that role. I am concerned about the narrative that is clearly building, with the responses to the unilateral actions taken, the threat of legal action by the European Union with the force majeure letter. The truth is that most member states have no particular interest in the detail of the issues around this protocol. As far as they are concerned, a deal was done with the British Government, and now it is time to move on. They are not going to go down any rabbit holes in relation to these issues.

As I said in a previous answer, other members of the European Union invest heavily, substantially, in the European Union to have the privilege, access and benefit of trading in the single European market. Then, they see the approach being taken by the Tory Government, which is supported by some unionist politicians — I say "some unionist politicians" — who have taken completely the wrong approach to the issue. They see a lot of dust being kicked up in this part of the world. Those European Union member states are sitting back and saying, "What's all that about? Why don't these people recognise that they have something that we don't — dual market access — and that they don't have to pick up the cost for having access to both a single market in Europe and the internal market in Britain?".

We need a bit of perspective on all these things. It is really important that the Tories start to get some perspective on resolving the issue and moving on, and then, hopefully, some of our unionist politicians will follow suit.

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

**Ms Sheerin:** Yes.

**Mr Sheehan:** I think that Trevor is getting his revenge on me. He asked the question that I was going to ask, so I will forgo asking one for now.

**The Chairperson (Mr McGrath):** That is grand. Thank you, Pat.

**Mr Stalford:** I want to take you back to one of the comments made by Declan Kearney when he referred to Mrs May's Brexit agreement. I have in front of me the opinion of the Attorney General, Geoffrey Cox QC, which was delivered to the then Prime Minister on 13 November 2018. In relation to the deal that Mrs May was proposing, he said:

*"Northern Ireland will remain in the EU's Single Market for Goods and the EU's customs regime, and will be required to apply and to comply with the relevant rules and standards. These include over 300 different legal instruments ... The implications of NI remaining in the EU Single Market for Goods, while GB is not, is that for regulatory purposes GB is essentially treated as an third country by NI for goods passing from GB into NI. This means regulatory checks would have to take place between NI and GB".*

It is important for people to understand that this myth that has been peddled, which is that what was on offer from Mrs May was, in some way, a better deal for Northern Ireland, is just that: a myth. Can either of the junior Ministers confirm that that is, indeed, the legal advice that was given by the Attorney General and that it is absolutely valid and correct to say that, even under the terms of Mrs May's agreement, the checks would still be taking place?

**Mr Lyons:** Yes, of course. I am happy to confirm that that is the case. That was the legal advice that was sought, and I completely share your frustrations, Christopher. Other people — politicians, the great and the good in society and commentators — say that Theresa May's deal would have been so much better for Northern Ireland, but it would not. Arguably, as you have demonstrated, it would have been worse. Regardless, it leaves us with the same problem, which is Northern Ireland being broken off from the rest of the UK internal market and our biggest market. That is the problem that we continue to face today. Whether the protocol or the backstop, the same problems would have remained.

We, as party, argued for something different. We wanted to make sure that Northern Ireland left on the same terms as the rest of the UK. That has not happened. What I want to see now is the UK and the EU at least living up to their promises about Northern Ireland's position and ensuring that there is free-flowing trade and that Northern Ireland is not left behind. There has been no evidence at all of the use of best endeavours by the EU. There has been no recognition of our integral place in the UK internal market. The protocol says that it:

*"should impact as little as possible on the everyday life of communities in ... Northern Ireland".*

That certainly has not happened either. It also says that they have a shared aim of:

*"avoiding controls at the ports and airports of Northern Ireland".*

Of course, it does not help to maintain the peace, and it does not uphold the Belfast Agreement.

What is very frustrating — it has come out time and time again today — is the complete failure to recognise the fundamental problems that the protocol is causing. As article 16 clearly states, if serious economic, societal or environmental difficulties persist or are liable to persist, or if there is a diversion of trade, unilateral action can be taken. That is why I think that the Government have taken appropriate measures. The impact of the end of the grace periods on food, in particular, would have been a disaster for people here. I urge people to put aside their own views on Brexit and at least recognise and understand the problems that exist, because, if we are not prepared to diagnose the problems that exist as a result of the protocol, we will never be in a position to fix them. A real frustration to me, sitting in this meeting today, is the complete lack of understanding of what some people are going through and what some people are facing, but the Executive Office is united in trying to get the best outcome for our people, and I hope that we can all work together to try to achieve that. Apologies, Mr Chairman, for not giving shorter answers.

**Mr Stalford:** It is fine. To be fair, it would be a bit late in the day to start complaining about people giving lengthy answers or, frankly, lengthy introductions to their questions.

The Chairman said that, increasingly, we are only hearing the negatives. I suggest that the reason why we are increasingly only hearing the negatives about the protocol is because, increasingly, people's lived experience of the protocol is negative. Gordon, you mentioned — either you or Declan can come in on this — consumer choice and limitations on consumer choice as a consequence of the rigorous implementation of the protocol. Fifty Members of the Assembly demanded that rigorous implementation. Could you explain to me some of the ways in which consumer choice has been affected by the rigorous implementation of the protocol?

**Mr Lyons:** Again, I am happy to go first and let Declan come in later. The end of the grace periods is when we will see a real impact on choice. In fact, I recently met representatives of the hospitality sector, who were worried about the reopening of the hospitality sector if it took place after the end of the grace periods. They said that they would not be able to open their restaurants and operate them in a normal way if the restrictions that will come in at the end of the grace periods were in place. That is how difficult it is and will be.

There is no doubt that there has been an impact on consumer choice. I am sure that this is the same for you, but my constituents are emailing me and saying that they want to bring things in from Great Britain but it is either too expensive to do so — there have been huge increases in the delivery costs etc because of additional charges — or suppliers have just said, "No, we are not delivering there any more". That is a real and pressing concern for people right now, and, as we get to the end of more of the grace periods, that is when it will kick in. We now need to realise that there is an issue, try to do something about that and make sure that it is resolved quickly, because it will have impacts and it is having impacts now. I will hand over to Declan.

**Mr Stalford:** To be fair to him, Lord Frost, after visiting Arcadia deli in Belfast, in an article in either 'The Daily Telegraph' or the 'Daily Mail' — I am not certain which but that gives you a flavour of my reading habits — identified the difficulties that that business is having in importing products.

Finally, I know that we have the SEUPB in with us next, but I want to again raise the issue that Trevor Lunn talked about in that PEACE PLUS will not be available until 2023. I know some of the figures. There are 240 people employed to work with young people who are receiving direct funding from PEACE PLUS. One of the projects that I know involves Northern Ireland Alternatives and Include

Youth. It is a cross-community and cross-border project. I understand that a solution was found for ESF projects through the Economy Department. Basically, there was some re-profiling of money that was intended for the COVID response. If that is the position and if I have accurately described the position, there may be some re-profiling to be done. I hope that the Department considers that, because, as I said, despite what everybody says about unionist overreaction to the protocol or anything like that, I suspect that having 240 youth workers on the ground in the upcoming period will be very important indeed. I greatly appreciate anything that the Executive Office can do to help in that matter. I am just flagging it up. I know that the SEUPB is with us later.

**Mr Lyons:** Christopher, if there is anything with specifics that you want to send directly to our office, I am happy to make sure that officials look at it.

**Mr Stalford:** That is great. Thank you very much.

**Mr Kearney:** I will come in briefly, Colin, because I know that you want to move on.

My response to what Christopher has said is this: absolutely. In these meetings, even when we have disagreements, I repeatedly attempt to find where there is some positive common ground. We do have common ground on those concerns. What Christopher described is a danger that is posed to wider society and all sections of the community. We jointly commit to trying to get additional information to come back and provide some reassurance on that matter. Christopher, you will not lose the opportunity to raise those issues with SEUPB, of course. That will help to reinforce the point.

We need to consistently seek to double down on the issues of stability and certainty that are required by our businesses, employers, workers and their families, and also civic society, the youth sector and those involved in restorative projects, who do important work on the ground. We must ensure that they are not left high and dry if that can be avoided at all. We need to avoid a financial-drift factor coming into play. We can only do that if we accept that we will disagree on key points but that there are other issues that we can, in fact, cooperate on.

Gordon spoke about the issue of diagnosing the problem, and I agree with him. You have to diagnose the problem, but — listen, guys — when you diagnose the problem, you do not get away from Brexit and the context of where we find ourselves. That is just unavoidable. We need to take the constitutional sting out of the issue. That sting has been wrongly and erroneously injected, and there are clearly political interests that are now being advanced on the back of it. That is an incorrect approach to take, because it will lead to the politics of chaos that are driven by some. It opens the door to extremists who then try to push the politics of the centre out of the equation. As we move through this period, we need to be very clear-eyed and understand that those are dangers that we must avoid.

Theresa May's deal was to kick in only "unless and until" it was necessary; it was a backstop. I say this to Christopher: Johnson's deal was a full stop, and it came in regardless. I will finish with a little quotation, as a riposte to Christopher's quoting of the Attorney General. In October 2019, the British Government's own explainer on the protocol said that it ensured:

*"an open border is maintained on the island of Ireland, a key objective for all sides in this negotiation."*

It added:

*"Any processes normally required on goods entering the EU will be implemented at the NI-Rest of World border or on trade moving East-West between Britain and NI. For as long as NI participates in the customs arrangements and regulatory zone, there will therefore be processes to ensure that goods entering NI destined for the EU pay the right duty and that all goods comply with the appropriate rules."*

That is the explainer that was produced by the British Government in October 2019.

**Mr Stalford:** I have a final point. That confirms what I said previously about it being time to see a bit more unionism being put back into the Conservative and Unionist Party.

**Mr Kearney:** [*Inaudible owing to poor sound quality.*]

**The Chairperson (Mr McGrath):** OK. We will maybe stop trying to finalise each other with final points. Ministers, thank you very much for your attendance. I was reflecting on Emma's suggestion that, if the Brexit process was the B-word and the protocol is the P-word, we may hope that the next section is not called "the future" or we could be in lots of trouble. Certainly, we need to move forward and find solutions. All that I can do is impress upon you both that we look for solutions, whatever they are, because solutions will mean stability within our community and stability for people, which is really important. Thank you very much for your attendance, and we will let you get on.