

11 June 2021

Dear Nick,

Could you please pass on my thanks to the committee for the opportunity to submit further evidence on the questions they did not get time to ask at the last evidence session.

As requested by the AERA Committee, I have provided responses to the further questions on which members sought clarity.

I trust this will be useful to the Committee and Council remains committed to assisting Members with the ongoing inquiry into the temporary removal of port staff due to safety concerns.

To further assist with the inquiry, we wish to separately provide an overview of the issues and actions agreed at Full Council between 9th June 2020 and 4th May 2021.

Kind regards

Anne

Background

The following table shows the dates that issues relating to the implementation of the Northern Ireland Protocol were raised with Elected Members at their Full Council meetings between 09th June 2020 to 04th May 2021.

It gives brief details of the issues and the actions agreed. Further details can be gleaned from the “minutes” section of the Council’s website.

Chief Executive provided reports to Council on the introduction of the NI Protocol, emerging difficulties and actions relating to the issues arising at each of the Council meetings listed.

Summary of Actions

In total, in the course of the 12 Council meetings considered as outlined below, the Chief Executive was instructed to engage with at least 21 different stakeholders on NI Protocol related issues alone, ranging from complex technical matters regarding animal health and welfare, to wider societal issues that affected the entire community within MEA Council area.

At almost all available opportunities, Council directed the Chief Executive to engage on these important issues and this required communication with a wide range of stakeholders including, but not restricted to, the UK Prime Minister, the Chancellor of Duchy of Lancaster, the Cabinet Office, the Department for Exiting the EU (DExEU), DEFRA, The Northern Ireland Executive, DAERA and FSA.

The below examples, clearly demonstrate the full permission from Elected Members for the Chief Executive to communicate on behalf of MEA BC with senior Government stakeholders, including the Cabinet Office.

Table Detailing Meetings, Discussions and Actions

Forum & Date	Discussion	Agreed Actions
Full Council 09th June 2020	Update to Council from Chief Executive on the importance of strong East - West links under the NI Protocol and a recently published Command Paper from the Cabinet Office, setting out how the Government would approach the implementation of the NI Protocol.	Update report noted.
Full Council 6 July 2020	Update from Chief Executive on the implementation of the NI Protocol and engagements to date. The Mayor requests the Chief Executive to continue her engagement with relevant stakeholders. “Deep concerns” as to the implementation of the NI Protocol expressed and the lack of clarity around some aspects of it.	<ol style="list-style-type: none"> 1. Note the update on the Command Paper on the UK’s Approach to the Northern Ireland Protocol 2. Engage with Secretary of State on future roll-out of the Protocol 3. Engage with Key Stakeholders to maximise the opportunities for Mid and East Antrim. 4. Engage with the Northern Ireland Executive in relation to implementation. 5. Chief Executive to engage with stakeholders including other NI Ports in relation to issues relating to Freeports including the implementation of the NI Protocol.
Full Council 3 August 2020	Update from Chief Executive noting that she had written to the Prime Minister in relation to the implementation of the NI Protocol. Update on discussions between the Mayor and the Deputy Mayor, with the NI Office Minister on the impact and wider implications of the NI Protocol.	<ol style="list-style-type: none"> 1. Note the update provided on the Northern Ireland Protocol; 2. Continue to engage government, Executive level on the implementation of the Protocol. 3. Carry out the instruction from Whitehall by the Food Standards Agency and advertise the 8 EHO posts as funded by DAERA. 4. Chief Executive to write to the Minister to request a further meeting and raise difficulties Businesses have reported with

		“just in time” Deliveries as a result of the implementation of the NI Protocol.
Full Council 7 September 2020	<p>Debate on the concerns, lack of clarity and restrictions developing as a result of the implementation of the NI Protocol.</p> <p>Further action deferred pending clarification from UK Government.</p>	<ol style="list-style-type: none"> 1. Note the update provided on the implementation of the Northern Ireland Protocol; 2. Undertake an awareness raising campaign for the Trader Support Service amongst Mid and East Antrim Traders in order to encourage them to register for the support; and 3. Continue to engage government, Executive level on the implementation of the Protocol. 4. Council to continue to engage at Westminster level on the importance of national infrastructure projects and to encourage connectivity across the UK. 5. Council to continue to engage with key stakeholders to monitor developments and shape the way forward in Border strategy.
Full Council 5 October 2020	<p>Discussion and debate on a paper updating to the implementation of the NI Protocol and some of the difficulties coming to the fore as a result.</p>	<ol style="list-style-type: none"> 1. Notes the update provided on the implementation of the Northern Ireland Protocol; 2. Continues to engage government on the implementation of the Protocol. 3. Continues to undertake awareness raising exercise with Mid and East Antrim business on the Trader Support Service. 4. Chief Executive asked to continue engagement with medicine providers across the UK to highlight issue and obtain answers to supply difficulties as a result of the implementation of the NI Protocol. 5. Chief Executive asked to write to Rt. Hon. Michael Gove MP, Chancellor of the Duchy of Lancaster on issues with the implementation of the NI Protocol.

<p>Full Council 2 November 2020</p>	<p>Debate on recent development, a Brexit Stakeholder event and correspondence with NI Minister of State on aspects of the implementation of the Protocol.</p>	<ol style="list-style-type: none"> 1. Note the update provided on the most recent developments in relation to Brexit and the implementation of the Northern Ireland Protocol; 2. Retrospectively approve the written response submitted to the Committee of the Executive Office in advance of the Brexit Stakeholder Event on 11 November 2020, included at Appendix 2. 3. Continue to engage government on the implementation of the Protocol. 4. Chief Executive to engage with stakeholders including other NI Ports in relation to issues relating to Freeports.
<p>Full Council 7 December 2020</p>	<p>Update on correspondence with various government departments and Ministers to date. Update from Chief Executive on implementation issues and engagement with DAERA. Members noted concern as to the “considerable uncertainty” around implementation of the Protocol.</p>	<ol style="list-style-type: none"> 1. Note the update provided on the most recent developments in relation to EU Exit and the implementation of the Northern Ireland Protocol; 2. Approve the submission to the Northern Ireland Affairs Committee Inquiry, included at Appendix 5. 3. Continue to engage government on the implementation of the Protocol.
<p>Full Council 4 January 2021</p>	<p>Update from the Chief Executive on correspondence with government including the Cabinet Office and the priorities adopted for the implementation of the NI Protocol as outlined by the Chancellor of the Duchy of Lancaster.</p>	<ol style="list-style-type: none"> 1. Note the update provided on the most recent developments in relation to the implementation of the Northern Ireland Protocol; 2. Continue to engage government on the implementation of the Protocol.
<p>Full Council 1 February 2021</p>	<p>Debate on ongoing issues and threats to staff at port as a result of the resistance to the implementation of the NI Protocol in some communities.</p>	<ol style="list-style-type: none"> 1. Note the update provided on the most recent developments in relation to EU Exit and the implementation of the Northern Ireland Protocol; 2. Continue to engage government on the implementation of the Protocol. 3. Engage with DAERA and inform them of difficulties with implementation of NI Protocol and resultant withdrawal of staff.

Full Council 1 March 2021	Notion of Motion debated on the opposition of the Council to the NI Protocol. The Motion was carried.	<ol style="list-style-type: none"> 1. Note the update provided on the most recent developments in relation to the EU Exit and the implementation of the Northern Ireland Protocol; 2. The Chief Executive instructed to write to DAERA and FSA at Whitehall to set out the difficulties the Council was experiencing as a result of the implementation of the NI Protocol.
Full Council 07th April 2021	Debate on Freeports noting the difficulties the implementation of the NI Protocol has caused in taking the matter forward.	<ol style="list-style-type: none"> 1. Chief Executive to write to Finance Minister, Finance Committee and Joint Committee to set out MEA position and urging Minister to support the Council's position.
Full Council 4 May 2021	Update on the implementation issues and consideration of a report detailing a range of difficulties requiring direction.	<ol style="list-style-type: none"> 1. Note the update provided on the most recent developments in relation to the EU Exit and the implementation of the Northern Ireland Protocol; 2. Continue to engage government on the implementation of the Protocol; and 3. Give direction on the issues set out in the report.

It was under these approvals, the letter to the Cabinet Office, sent on 1 February 2021, was subsequently shared with the following.

It remains Council's position that this letter had no bearing whatsoever into the temporary removal of Port staff, which was a decision taken with the health, safety and wellbeing of Council staff the priority.

It was under these approvals, the letter was shared with the following posts, regardless of their political party or persuasion:

External:

- **Director of the Transition Taskforce Northern Ireland - Cabinet Office (Brendan Threlfall):** The Cabinet Office has a responsibility for the operational domestic readiness up to and after 1 January 2021. All Command Papers and operational guidance relating to the Northern Ireland protocol come from the Cabinet Office. From 1 February 2020, responsibility for the transition period and UK-EU negotiations were led by the Cabinet Office under the direction of the

Minister for the Cabinet Office, who is the Chancellor of the Duchy of Lancaster. The Cabinet Office is the Department responsible for the transition, the operational readiness and the implementation of the Northern Ireland protocol. It is another relevant partner organisation regarding the implementation of the Northern Ireland protocol.

- **DAERA Minister (Edwin Poots MLA):** The letter was shared confidentially with the DAERA Minister as the competent authority in the implementation of the Northern Ireland Protocol, and he was therefore updated in line with Council's approach, as outlined above.
- **Mid and East Antrim Elected MPs (Ian Paisley MP, Sammy Wilson MP, Office Staff Member):** This was shared with the Borough's MPs as key stakeholders to raise concerns/issues at Westminster level, and they were therefore updated in line with Council's approach, as outlined above. This is normal practice, particularly for issues that Council need raised at a Westminster level.
- **Westminster MP (Sir Jeffrey Donaldson):** The official point of contact at the Cabinet Office (Brendan Threlfall) was provided to Ms Donaghy by Sir Jeffrey. This is why Sir Jeffrey was subsequently included within the written correspondence to the Cabinet Office.
- **First Minister of Northern Ireland (Arlene Foster):** Mrs Foster is First Minister and therefore the key negotiator with the Duchy of Lancaster and the Brexit lead and Cabinet Office, and was therefore updated in line with Council's approach, as outlined above.
- **Junior Minister for the Northern Ireland Executive and East Antrim MLA: (Gordon Lyons):** This was shared with Mr Lyons in confidence in his roles as Junior Minister and MLA for the area covering Larne Port. These dual roles made him a key stakeholder, and he was therefore updated in line with Council's approach, as outlined above.
- **SOLACE Liaison Officer:** To ensure the letter was written in a dual role.

Internal:

- **Mayor of Mid and East Antrim Borough Council (Peter Johnston):** The Mayor is the First Citizen of the Borough and in this role is kept fully up to date on emerging issues by the Chief Executive. The letter was sent in confidence after 6pm on 1 February, post the meeting of Group Party Leaders and while the Mayor was preparing to chair a meeting. Council advises the Mayor was completely unaware of its contents when he chaired the council meeting that evening, and there is no reference to said letter within the minutes of that meeting, which are available.
- **Council lead of current mayor's party (Councillor Gregg McKeen):** This was shared with Cllr Gregg McKeen in confidence. It is normal procedure in Mid and East Antrim that a Group Party Leader is kept informed of emerging issues which may impact on the Council Mayor during their time in office.

Council advises the letter nor its contents were shared by Councillor McKeen thereafter.

- **Council Head of Communications**
- **PA to Chief Executive to the Director of Corporate Services**
- **Council Solicitor**

Council also wishes to provide further details regarding the retrospective tabling of the letter to the Cabinet Office at Full Council on 4 May 2021.

This is outlined within the questions, and for the assistance of the AERA Committee:

Minutes from the meeting outline:

Tabled and previously circulated - Report; Appendix 1a: DAERA Letter 12.03.21; Appendix 1b: FSA Letter 16.03.21; Appendix 1c: FSA Letter 21.01.21; Appendix 2: Draft Letter to DAERA 04.05.21; Appendix 2b: Draft response FSA 30.04.21; Appendix 3: Draft Letter to Cabinet office; and Appendix 4: All correspondence re Council's efforts.

The Chief Executive detailed the purpose of the report and actions recommended. She provided Members with an overview of the financial and legal implications in relation to the way forward and recommendations from Council's barrister.

Members were in support of the recommendations outlined by the Chief Executive, emphasising the need to take a firm approach and avoid costs to the ratepayer.

As proposed by Ald Ashe, seconded by Cllr Clarke, it was

Agreed: That Council, having noted the correspondence in

Appendix 4:

- (i) Authorise the Chief Executive to write letters on Council's behalf to the Department of Agriculture, Environment and Rural Affairs and the Food Standards Agency to advise them of their responsibilities and make clear that Council is not the responsible authority;
- (ii) Instruct a Queen's Counsel to draft proceedings and provide an opinion, together with Junior Counsel, seeking a declaration from the High Court of Council's statutory duty in accordance with Food and Feed law should the department not accept their full responsibility immediately, and further how Council reconciles its statutory obligation under S46 of the Internal Markets Act (2020) not to fetter the free flow of goods; and

- (iii) Recommend the Chief Executive writes to the Cabinet Office to inform them of our intentions given their role of having oversight for the implementation of the NI Protocol should the Department not accept their full responsibility immediately.

The Cabinet Office letter was contained within Appendix 4, all of which had been written under the approvals set out in the table within this document. This report, including Appendix 4, was noted by Council on 4 May 2021, and no objections were received. We can clarify the correspondence was noted by Elected Members, if this has caused some confusion.

Question 1: On whose behalf was the letter sent to the Cabinet Office on 30 January 2021 written - was this SOLACE or Mid and East Antrim Borough Council?

At the outset, Council would re-emphasise to the Committee, the letter was not included in the first evidence session as it had no bearing on the decision to withdraw staff from Larne Port. It was not considered or discussed by Members at the Group Party Leaders meeting nor Full Council.

The role of a Council Chief Executive runs in parallel with any position that they fulfil in SOLACE. The various roles and the issues with which they are tasked with dealing are complementary and, as such, there is often some crossover.

In the first paragraph of the letter of 30 January 2021 the Chief Executive clarified that the letter was being sent confidentially and introduced it in her role as Chief Executive of Mid and East Antrim, immediately then also clarifying her dual role as Chair of the Northern Ireland EU Task and Finish Working Group, which is a SOLACE position.

Since she was also highlighting Mid and East Antrim's position in relation to Union Connectivity, which was made clear in the letter, she deemed it appropriate to use Council headed paper.

In writing the letter in this dual capacity, the Chief Executive drew upon her first-hand experience of Larne Port as Chief Executive of Mid and East Antrim, together with wider concerns around the implementation of the Northern Ireland Protocol that she had been encountering in her role as Chair of the SOLACE NI EU Task and Finish Working Group.

At the SOLACE monthly meeting on 08 January 2021, Ms Donaghy updated the Chief Executives on the implementation of the Northern Ireland Protocol and the challenges facing the local government sector. The following week issues around the implementation of the NI Protocol became so critical that a special, emergency meeting was requested by Ms Donaghy as Chair of the Task and Finish Working Group to the Chair of SOLACE NI, Mrs Jacqui Dixon. This was duly arranged for 15 January 2021.

This meeting was to deal solely with the practical and operational implementation of the NI Protocol and early difficulties identified by Local Government through the EU Task and Finish Working Group.

At this meeting on 15 January, attended by most of the 11 Council Chief Executives, all agreed on the need to urgently receive clarity on a number of important issues, including governance arrangements, accountability, charging and practical obligations. The Chief Executives further agreed that Ms Donaghy would also be

appointed as the senior reporting officer for the Charging Group, which was to be established by DAERA. In this role she would lead any future discussions regarding charging and would represent local government with all key stakeholders.

In light of the developing issues and increasing concerns around the practical and operational implementation of the NI Protocol, Ms Donaghy, as Chair of the SOLACE NI EU Exit Task and Finish Working Group, prepared a report outlining a number of issues. This was emailed to the Chair of SOLACE NI on 26 January 2021 to share with all other Chief Executives. In this report, the key role of the Chancellor of the Duchy of Lancaster the most senior minister in the Cabinet Office, was outlined and the need for continued engagement was once again highlighted, as responsibility for dealing with many of the issues identified lay with the Cabinet Office and were not devolved.

Updates would be subsequently provided at future SOLACE NI meetings. This action aligned with the Terms of Reference in relation to the EU Task and Finish Working Group to *influence, articulate and contribute to the wider policy issues in relation to the implementation of the NI Protocol.*

The checks carried out by local government at Northern Ireland's ports are a key component of the NI Protocol and any work to improve the supply chain flow would have a role for local government: therefore, it was logical that the SOLACE NI EU Task and Finish Working Group also engage with the Cabinet Office.

Ms Donaghy's dual role (as **Council Chief Executive** and **Chair of the SOLACE NI EU Task and Finish Working Group**) was clearly evidenced and recognised by SOLACE in a press statement it provided to the media (23 April 2021) in relation to a query around the submission of the letter to the Cabinet Office of 30 January 2021. In this press statement, SOLACE said:

“Anne Donaghy, Chief Executive of Mid and East Antrim Borough Council, is the Chair of the Solace NI EU Exit Task and Finish Working Group. In this capacity, Anne engages with the Department of Agriculture and Rural Affairs (DAERA), the Food Standards Agency Northern Ireland (FSA (NI)) and other relevant partner organisations regarding the implementation of the NI Protocol from a local government perspective.”

This reference to *“other relevant partner organisations regarding the implementation of the NI Protocol from a local government perspective”* includes the **Cabinet Office**, as the lead authority on this matter.

As such, the Cabinet Office has the responsibility for operational domestic readiness up to and after 01 January 2021, and all command papers and operational guidance relating to the Northern Ireland Protocol emanated from the Cabinet Office.

From 01 February 2020, responsibility for the transition period and UK-EU negotiations were led by the Cabinet Office, under the direction of the Minister for the Cabinet Office, the Chancellor of the Duchy of Lancaster. The Cabinet Office is the department responsible for the transition and operational readiness and the implementation of the Northern Ireland Protocol.

Council’s Chief Executive regularly updates the Elected Members of Mid and East Antrim Borough Council on the progress of the SOLACE Working Groups/Committees in which she is involved in order to be transparent and accountable in relation to her time and resource.

It is also important that the Elected Members know that Mid and East Antrim continues to work in an integrated and collective way across local government regionally, nationally and internationally.

From 2018 to 2021, Mid and East Antrim Borough Council has engaged on many occasions with a wide range of key stakeholders at regional and national level on matters pertaining to Brexit and the Northern Ireland Protocol.

Due to the fluid nature of the government’s Brexit structures, this has included officials and political representatives.

Council has always been informed of such engagements and approvals granted accordingly. Below demonstrates in detail these Council approvals, including - but not limited to - those made at:

Forum & Date	Discussion	Agreed Actions
Full Council 09 th June 2020	Report to Council from Chief Executive on the importance of strong East - West links under the NI Protocol and a recently published Command Paper from the Cabinet Office, setting out how the Government would approach the implementation of the NI Protocol.	Update report noted.

<p>Full Council 6 July 2020</p>	<p>Update from Chief Executive on the implementation of the NI Protocol and engagements to date.</p> <p>The Mayor requests the Chief Executive to continue her engagement with relevant stakeholders.</p> <p>“Deep concerns” as to the implementation of the NI Protocol expressed and the lack of clarity around some aspects of it.</p>	<ol style="list-style-type: none"> 1. Note the update on the Command Paper on the UK’s Approach to the Northern Ireland Protocol 2. Engage with Secretary of State on future roll-out of the Protocol 3. Engage with Key Stakeholders to maximise the opportunities for Mid and East Antrim. 4. Engage with the Northern Ireland Executive in relation to implementation. 5. Chief Executive to engage with stakeholders including other NI Ports in relation to issues relating to Freeports including the implementation of the NI Protocol.
<p>Full Council 3 August 2020</p>	<p>Update report from Chief Executive noting that she had written to the Prime Minister in relation to the implementation of the NI Protocol.</p> <p>Update on discussions between the Mayor and the Deputy Mayor, with the NI Office Minister on the impact and wider implications of the NI Protocol.</p>	<ol style="list-style-type: none"> 1. Note the update provided on the Northern Ireland Protocol; 2. Continue to engage government, Executive level on the implementation of the Protocol. 3. Carryout the instruction from Whitehall by the Food Standards Agency and advertise the 8 EHO posts as funded by DAERA. 4. Chief Executive to write to the Minister to request a further meeting and raise difficulties Businesses have reported with “just in time” Deliveries as a result of the implementation of the NI Protocol.
<p>Full Council 7 September 2020</p>	<p>Debate on the concerns, lack of clarity and restrictions developing as a result of the implementation of the NI Protocol.</p>	<ol style="list-style-type: none"> 1. Note the update provided on the implementation of the Northern Ireland Protocol; 2. Undertake an awareness raising campaign for the Trader Support Service amongst Mid and East Antrim Traders in

	Further action deferred pending clarification from UK Government.	<p>order to encourage them to register for the support; and</p> <p>3. Continue to engage government, Executive level on the implementation of the Protocol.</p> <p>4. Council to continue to engage at Westminster level on the importance of national infrastructure projects and to encourage connectivity across the UK.</p> <p>5. Council to continue to engage with key stakeholders to monitor developments and shape the way forward in Border strategy.</p>
Full Council 5 October 2020	Discussion and debate on a paper updating to the implementation of the NI Protocol and some of the difficulties coming to the fore as a result.	<p>1. Notes the update provided on the implementation of the Northern Ireland Protocol;</p> <p>2. Continues to engage government on the implementation of the Protocol.</p> <p>3. Continues to undertake awareness raising exercise with Mid and East Antrim business on the Trader Support Service.</p> <p>4. Chief Executive asked to continue engagement with medicine providers across the UK to highlight issue and obtain answers to supply difficulties as a result of the implementation of the NI Protocol.</p> <p>5. Chief Executive asked to write to Rt. Hon. Michael Gove MP, Chancellor of the Duchy of Lancaster on issues with the implementation of the NI Protocol.</p>
Full Council 2 November 2020	Debate on recent development, a Brexit Stakeholder event and correspondence with NI Minister of State on aspects of the implementation of the Protocol.	<p>1. Note the update provided on the most recent developments in relation to Brexit and the implementation of the Northern Ireland Protocol;</p>

		<p>2. Retrospectively approve the written response submitted to the Committee of the Executive Office in advance of the Brexit Stakeholder Event on 11 November 2020, included at Appendix 2.</p> <p>3. Continue to engage government on the implementation of the Protocol.</p> <p>4. Chief Executive to engage with stakeholders including other NI Ports in relation to issues relating to Freeports.</p>
Full Council 7 December 2020	Update on correspondence with various government departments and Ministers to date. Update from Chief Executive on implementation issues and engagement with DAERA. Members noted concern as to the “considerable uncertainty” around implementation of the Protocol.	<p>1. Note the update provided on the most recent developments in relation to EU Exit and the implementation of the Northern Ireland Protocol;</p> <p>2. Approve the submission to the Northern Ireland Affairs Committee Inquiry, included at Appendix 5.</p> <p>3. Continue to engage government on the implementation of the Protocol.</p>
Full Council 4 January 2021	Update from the Chief Executive on correspondence with government including the Cabinet Office and the priorities adopted for the implementation of the NI Protocol as outlined by the Chancellor of the Duchy of Lancaster.	<p>1. Note the update provided on the most recent developments in relation to the implementation of the Northern Ireland Protocol;</p> <p>2. Continue to engage government on the implementation of the Protocol.</p>
Full Council 1 February 2021	Debate on ongoing issues and threats to staff at port as a result of the resistance to the implementation of the NI Protocol in some communities.	<p>1. Note the update provided on the most recent developments in relation to EU Exit and the implementation of the Northern Ireland Protocol;</p> <p>2. Continue to engage government on the implementation of the Protocol.</p>

		3. Engage with DAERA and inform them of difficulties with implementation of NI Protocol and resultant withdrawal of staff.
Full Council 1 March 2021	Notion of Motion debated on the opposition of the Council to the NI Protocol, with the Motion being carried.	1. Note the update provided on the most recent developments in relation to the EU Exit and the implementation of the Northern Ireland Protocol; 2. The Chief Executive instructed to write to DAERA and FSA at Whitehall to set out the difficulties the Council was experiencing as a result of the implementation of the NI Protocol.
Full Council 07th April 2021	Debate on Freeports noting the difficulties the implementation of the NI Protocol has caused in taking the matter forward.	1. Chief Executive to write to Finance Minister, Finance Committee and Joint Committee to set out MEA position and urging Minister to support the Council's position.
Full Council 4 May 2021	Update on the implementation issues and consideration of a report detailing a range of difficulties requiring direction.	1. Note the update provided on the most recent developments in relation to the EU Exit and the implementation of the Northern Ireland Protocol; 2. Continue to engage government on the implementation of the Protocol; and 3. Seeking direction on the issues set out in the report.

At almost all available opportunities, Council directed the Chief Executive to engage on these important issues and this required communication with a wide range of stakeholders including, but not restricted to, the UK Prime Minister, the Chancellor

of Duchy of Lancaster, the Cabinet Office, the Department for Exiting the EU (DExEU), DEFRA, the Northern Ireland Executive, DAERA and FSA.

From the above examples, this clearly demonstrates the full permission from Elected Members for the Chief Executive to communicate on behalf of MEA BC with Government stakeholders, including the Cabinet Office.

Question 2: Who was aware of the letter before it was sent?

- The Solace Local Government Liaison Officer
- Mid and East Antrim Borough Council Director of Community
- Mid and East Antrim Borough Council PA to Chief Executive
- Mid and East Antrim Borough Council Corporate Solicitor

Question 3: Who provided Mrs Donaghy with information regarding the potential threats to port staff? Including “grassroots” sources

Council has a low tolerance towards any factors that could potentially put officers at risk of harm, or impact officer safety and wellbeing.

Council’s priority is, and always will be, the health, safety and wellbeing of its staff and ensuring it meets the employer’s moral and legal obligations to staff safety, as outlined in the Health & Safety at Work Order (NI) 1978 and the Human Rights Act 1998 Article 2, which protects every individual’s right to life.

As a public body and as a responsible employer, Council is responsible for taking positive action to ensure that officer safety is not compromised in any way by negligence, inadequate training, or the implementation of decisions which lack sound rationale which had the potential to infringe on officers’ Article 2 Rights.

In all and any circumstances where officer safety is compromised in any way, Council will adopt a prudent approach as a responsible employer and will always err on the side of caution. This includes liaising regularly with all relevant parties, including law enforcement agencies, such as the Police Service of Northern Ireland (PSNI).

As such, during the period 22 January 2021- 01 February 2021, senior Council officers had eight correspondences/engagements with the PSNI to discuss the ongoing situation and raise concerns about the safety of Council staff working at Larne Port

A list of these is available.

Information was being sent to Council and the Chief Executive, and relayed to police, from a wide range of stakeholders throughout this time, as outlined below:

1. The first clear threat made towards Port staff appeared via graffiti sprayed close to Larne Port around Thursday 21 January, which stated that ‘All Border Post Staff are Targets’. A member of Council Port staff reported the incident to their Line Manager, voicing their serious concern at the appearance of graffiti of this nature.
2. A political representative, who had heard through grassroots contacts, that an individual may have been involved in the graffiti attack. This individual allegedly had a criminal record in relation to drug dealing offences, as well as potential links to organised crime. The political representative had advised the Chief Executive that a PSNI officer had referred to the graffiti incident as being a “sinister threat”.
3. At the Northern Ireland Affairs Committee on Wednesday 27 January an Assistant Chief Constable (ACC) Mark McEwan spoke of growing discontent

within the Protestant/Unionist/Loyalist (PUL) community in regard to the Protocol. The ACC was quoted in the media as saying: “We are seeing signals, there are signal incidents that have happened, particularly in recent days. We are starting to see graffiti, we are picking up social media sentiment of growing discontent, particularly within the Protestant/loyalist/unionist community.”

4. On Thursday 28 January, there was widespread concern among those present at a meeting of the SOLACE NI EU Exit Task and Finish Working Group over the appearance of this graffiti.
5. On Friday 29 January, the Chief Executive was made aware by a member of Council staff that video footage that had been taken at Larne Port was posted on an anti-Protocol group on social media. This video footage clearly showed personal vehicles on the Larne Port site. There were genuine concerns from the staff member at this evidenced filming of vehicles in Larne Port, which was giving rise to fears that number plates were being recorded.
6. Further concerns were raised by staff on the same date, through to the Council Director responsible, that they had noticed the slowing down of cars at the Port and felt worried.
7. Political representatives across Mid and East Antrim, who were in regular communication with community representatives and neighbourhood police, were also bringing these fears to the attention of the Chief Executive.
8. On Friday 29 January, the Chief Executive was contacted by a senior Department of Justice (DoJ) official, who requested feedback on what intelligence was emerging ‘on the ground’ in relation to the graffiti incident at Larne Port and what was happening at community/grassroots level.
9. Throughout that weekend, the Chief Executive made and received a number of communications from stakeholders regarding the ongoing situation at Larne Port - including the DAERA Minister, representatives from the PSNI, political representatives and senior officers within Council.
10. Political sources again raised reports that an individual suspected of involvement in the graffiti incidents was alleged to have links to organised crime gangs. It was claimed they were working without sanction or direction from others. With no evidence nor means to substantiate these alleged claims, the Chief Executive passed them to the PSNI for their attention.

11. Over the course of that weekend of 30/31 January, the Chief Executive advised the DAERA Minister that she had been made aware of a number of alleged but unconfirmed issues. The Minister confirmed that he was aware of similar reports and advised the Chief Executive he would make the necessary checks through his contacts. He said he had been informed of an allegation that staff number plates were being recorded at the Port, and an increase in stationary and slowing down vehicles had been observed at the Port. The Minister also advised that information had been received via Crimestoppers that a number of Port staff had been targeted.
12. It was relayed to the Chief Executive that threatening graffiti had appeared close to a DAERA worker's home in East Belfast - an incident which subsequently appeared in the media the following weekend.
13. Over the same weekend of 30/31 January, the Chief Executive spoke with Council's local PSNI District Commander Michael Simpson and relayed the claims about alleged monitoring of staff and vehicle registrations and the potential video recording of vehicle registrations. She asked him if he had any further information on the validity of the threats and he confirmed that he was aware of these allegations.
14. By the morning of Monday 1 February, the Chief Executive had received information from political representatives about increasing tensions on the ground, and additional graffiti/signage that had appeared in the Borough during this weekend - including at the main roundabout near to the entrance to Larne Port.
15. An email from a major Trade Union was received by Council at 1.45pm on Monday 1 February, stating "that staff whose job it is to carry out the Brexit NI protocol appear to have been threatened via graffiti and potentially other methods for carrying out their role". The email added: "I hope to hear from you soon on how the employer is intending to address these potentially very serious threats."
16. On the same afternoon, the Chief Executive and Director with responsibility for Larne Port were informed by Council staff that DAERA had advised their Port staff not to travel to Larne Port in their own vehicles if they did not feel comfortable. DAERA Port staff were told that alternative transport, from Loughry College campus (DAERA), was being arranged and that this was for their reassurance. At 4.45pm that day, a meeting with the DAERA Minister took place. This was attended by Council's Chief Executive and Director of Corporate Services; the SOLACE Liaison Officer; representatives of Belfast City Council; the FSA and DAERA. **The Minister advised those in attendance**

that he had looked into the matter and was satisfied that concerns around Larne and Belfast Ports were real. He was “dismayed to hear” what he’d “heard on the ground.” Minister Poots said he was “quite angry” that some information had not been brought forward to him before by the PSNI, saying that he felt that the situation was “unacceptable”. The DAERA Minister advised the meeting that information received via Crimestoppers suggested that a number of members of Port staff were being targeted. The DAERA Minister noted that the feedback he had received from political representatives was that there was at least some paramilitary involvement in the issues.

17. The increased presence of PSNI at Larne Port added to Council concerns, since PSNI obviously deemed there to be a credible enough threat to warrant this. The PSNI later confirmed that almost 2,500 standard hours and 391 overtime hours had been dedicated to an increased resource plan in the area.

Since the decision-making process, there has been further increased tensions, attacks on property, a PSNI officer’s cars burned out in the area and anti-protocol demonstrations across Northern Ireland.

Regarding the potential involvement of paramilitary groups in the run up to 1 February, PSNI Assistant Chief Constable Mark McEwan previously told the AERA committee (from Hansard record): *“We sought clarity on that point. Concern was held by most of our partners, it is fair to say, that perhaps there was some involvement, or there was going to be some involvement. We sought clarity on it and, as I said, nothing in those conversations led us to alter our view. There was a phone call on 29 January. I was aware of the concerns, but when we fed in those concerns in the making of our the (sic) threat assessment, that threat assessment did not change.”*

Giving evidence to the AERA committee on Thursday 3 June, Minister Edwin Poots MLA said he was made aware of a **coded message** to Crimestoppers during a telephone conversation with Assistant Chief Constable Barbara Gray.

Mr Poots said the PSNI did not share that information with Belfast City Council or Mid and East Antrim Council which as well as his department had staff working at the ports of Belfast and Larne.

“That was actually a coded threat and that caused me much more concern because of the fact there was a **code with that threat,**” he said.

“I was really annoyed to be quite frank that that material was not shared with Belfast and Mid and East Antrim Council by the police because I think that they have a duty to ensure that the councils, who have that duty of care to their staff, are fully aware

of everything that is going on and therefore it struck me that that sort of material should not have been withheld from the councils at that point.”

The Minister read from his phone, including correspondence which stated: “Note the concern below, especially PSNI officers saying credible threats from loyalist and that staff need to worry.”

Committee member William Irwin MLA said he had been warned about a threat to his own personal security.

The Minister said that “a member of our staff who was working at the ports had to move out of their own home because of the level of the threat against them - that move took place under the SPED scheme. You don’t get a SPED scheme unless there are credible threats.”

Question 4: With which political representatives were discussions had about the potential threats?

Given the extremely serious and sensitive nature of the allegations raised surrounding this matter, grassroots/political sources were assured of complete confidentiality and discretion. This approach not only respects and protects longstanding and trusted relationships with these sources, but serves to allay their concerns about their own personal safety and security. Indeed, law enforcement agencies do not reveal their sources, as outlined in the next paragraph.

Such accord to the personal safety of sources of information was also acknowledged by the PSNI's Temporary Assistant Chief Constable Bobby Singleton. He previously told the Committee (as from Hansard), in relation to information being passed anonymously about alleged criminality, that: ***“We encourage people to talk to us about it and to have a conversation with their neighbourhood officer or to call us on 101 – 999 in an emergency – but we recognise that sometimes, because of fear for their personal safety, people do not feel comfortable doing that. In that respect, Crimestoppers offers a great means through which people can provide information anonymously.”***

The ACC added: “Certainly, throughout this period, information has been received both through local police officers and through the likes of Crimestoppers and other mediums. Everybody will have seen the escalation in tensions from around mid-January onwards. To use an expression, we have very much had our ear to the ground to try to understand the sentiment in communities and to bring it all in and synthesise it in order to arrive at our threat assessment.”

As outlined above, a number of political representatives contacted the Chief Executive and Council to raise their concerns, following the first appearance of the sinister graffiti.

Political/grassroots sources raised reports that an individual suspected of involvement in the graffiti incidents was alleged to have links to organised crime gangs. It was claimed they were working without sanction or direction from others. With no evidence nor means to substantiate these alleged claims, the Chief Executive passed them to the PSNI for their attention.

On Friday 29 January, the Chief Executive updated senior members of Council staff and the Mayor on her conversation with the DoJ official.

Over the following weekend, the Chief Executive made the Mayor and senior Council staff aware of the latest information she had following her conversations with the Minister and PSNI, and asked them to ensure strong lines of communication with staff at Larne Port throughout the weekend.

In addition to the information outlined in response to question 3, at 3.15pm on Monday 01 February, a meeting of the Group Party Leaders took place.

This was agreed between the Mayor and Chief Executive, who had met earlier that afternoon as is standard practice on the day leading up to a full Council meeting. At this meeting, the Chief Executive briefed the Mayor on the latest information, impressing to him that she didn't believe this matter could be treated as a normal staffing issue due to the uniqueness of the situation.

Given the high level of contact the Chief Executive has as standard with Elected Members on the day of a full Council meeting (and the fact that over the past year of the pandemic the Group Party Leaders met as often as twice a week) and - being respectful of the Elected Member/officer working relationship - Ms Donaghy and the Mayor agreed that it would be prudent to update and take soundings from the Group Party Leaders confidentially.

This would also serve to gain a steer from them regarding the course of action they felt most appropriate, and to take their soundings around grassroots and community sentiment in advance of the full Council meeting later that evening.

At the meeting at 3.15pm, the Chief Executive briefed the Group Party Leaders and Mayor in full, providing them with a detailed update on the information that had been assimilated to date. The Chief Executive reinforced there were mixed messages and ambiguity in the detail of some of the facts from the range of key stakeholders, and that the information she was sharing was yet to be fully substantiated by the PSNI, and emphasised this.

However, she advised them that whilst the PSNI hadn't yet substantiated this information, they had earlier confirmed rising tensions at grassroots level within the Protestant, unionist and loyalist community. PSNI had also confirmed that they were increasing resources at Larne Port, but Members felt a much stronger response from PSNI was needed since community tensions could escalate quickly.

Having discussed the matter, the Group Party Leaders were **unanimous, with cross-party support, in their view that the safety of staff was paramount** and felt that staff should be withdrawn temporarily until the matter was resolved by securing a much better understanding of the level of threat to staff. This was the direction of the Group Party Leaders.

It was agreed that this could only be achieved through a **formal written threat assessment by the PSNI** as the expert authority, and that this would be a recommendation put to full Council later that evening.

Following this meeting, the situation at Larne Port was brought to Full Council at 6.30pm on Monday 01 February.

This matter was discussed in closed meeting by all 39 Elected Members present due to the obvious sensitivities and to allow Elected Members to fully debate and ask the relevant questions of the Chief Executive.

On eight separate occasions during the Council meeting, the Chief Executive advised Elected Members that she was very unclear as to the veracity of the high volume of information received within the space of a few days.

Throughout the closed Council meeting, the Chief Executive responded to Elected Members' queries and questions, and all Members had every opportunity to seek clarity or ask whatever specific questions they wished to raise.

One Elected Member stated that the safety of Council's staff was paramount and referred to the previous week's Policing and Community Safety Partnership (PCSP) meeting, which was attended by seven Elected Members that make up the MEA PCSP. At this meeting the PSNI had been questioned by a number of these Elected Members directly on the issue and responded to their queries, advising that there was no threat.

When an Elected Member at the full Council meeting asked if there was paramilitary involvement, the Chief Executive informed that she did not know the source of the threat.

She reiterated that the reason why a formal PSNI written threat assessment was being requested was that she did not know and had no way of finding out the validity of the allegations other than through the PSNI.

The meeting openly debated the issue at length for around 40 minutes in closed Council, during which a number of Elected Members from across the political spectrum engaged in a full and frank discussion.

At the end of this, all unanimously agreed with a recommendation - put forward by the DUP and seconded by Alliance - that Council's staff be temporarily withdrawn from Larne Port duties with immediate effect until a formal written threat assessment by the PSNI was received, and Council's own risk assessment could be completed following this.

The decision was agreed by representatives of the DUP, Sinn Fein, SDLP, UUP, Alliance, TUV and independents. All Elected Members present were in agreement with the recommendation.

At the AERA committee on 3 June 2021, Minister Poots MLA said there "seems to be some issue with information that was coming from police on the ground and police at a senior level", adding that police on the ground were "telling our staff that there was problems, that there were credible threats".

He told the Committee he was concerned that in one of his conversations with police, "they referred to taking intelligence from social media".

“I’m sorry but police intelligence should be better than taking it from social media.

“Police intelligence should be on the ground picking up information, and I know that police officers have been picking up that intelligence at that lower level and have expressed that,” he said.

Mr Poots contended there was a “whole series of events” which led him to conclude they could not guarantee the safety of staff.

“I also had several discussions with my colleagues and a range of other stakeholders across Northern Ireland who reported threats that I assessed to be credible,” he said.

5. Where did Ms Donaghy get information regarding paramilitary involvement?

Please see responses to questions 3 and 4.

6. Did Mrs Donaghy relay the source and detail of that information (regarding paramilitary involvement) to the PSNI and when was that done?

As stated in response to question four, all information was passed to the PSNI.

With no evidence nor means to substantiate the wide range of alleged claims, the Chief Executive passed them to the PSNI for their attention.

A total of eight contacts were made to senior PSNI officials, relaying information as received and occurred.

At a previous AERA hearing, Temporary ACC Bobby Singleton stated:

“Chair, may I begin with an apology to the Committee? In my evidence on 15 April, I was asked by a member from South Belfast:

““Did the Minister or Mid and East Antrim Borough Council report any threats that they had received or were aware of to the PSNI?”

“In my evidence, I replied:

““No, not to people working at border posts.”

“I have to clarify that that was not, in fact, the case. It has subsequently been established that the district commander for Mid and East Antrim, Superintendent Michael Simpson, did, in fact, have contact with the chief executive about a reputed threat to staff on Saturday 30 January. At that time, the chief executive told Superintendent Simpson that she had been made aware that staff were under threat and that vehicle registrations were being recorded at the port. I understand that Superintendent Simpson liaised with our intelligence branch and was able to establish that the police had, that same day, received the same information anonymously. The police, however, assessed that that information was uncorroborated and unsubstantiated, as I covered in my evidence on 15 April. That assessment has not changed since. It is very important, Chair, that I put the record straight on that particular point.”

Given the extremely serious and sensitive nature of the allegations raised surrounding this matter, grassroots/political sources were assured of complete confidentiality and discretion.

This approach not only respects and protects longstanding and trusted relationships with these sources, but serves to allay their concerns about their own personal safety and security.

Indeed, the safety of Council's Chief Executive was reviewed by the PSNI and a police presence increased around her young family's home for a period of time due to their concerns.

Minister Edwin Poots MLA told the AERA Committee on Thursday 3 June 2021: "My request to suspend physical checks on products of animal origins was not taken lightly, and given the potential threats I had been made aware of, my decision was based on ensuring the health and safety of my officials which is of paramount importance.

"I can absolutely and totally stand over the decision to temporarily remove staff until we ascertained further information and had absolute clarity before putting them back in again."

Minister Poots said: "I am dealing exclusively with the issues raised by staff and the issues that were raised by people on the ground in terms of public representatives who I consulted with.

"There's a whole series of events to go through here that would have led us to a conclusion that we could not guarantee staffs' wellbeing, and I put it to you, if you were in my position, and you couldn't guarantee your staffs' wellbeing, what would you do?

"Would you put them at risk?

"Because I certainly wouldn't."

7. In relation to the retrospective ratification by Mid and East Antrim Borough Council in May of the letter sent to the Cabinet Office:

- (a) Was this listed as a specific agenda item at the Council meeting on Tuesday 4th May?

In May 2021, Council considered a detailed update on the implementation of the Northern Ireland Protocol, which included all the relevant detailed information for the elected representatives' consideration.

As part of this report, the correspondence to the Cabinet Office was noted, and formed the basis for the decision to proceed to write to DAERA and FSA to advise them of their responsibilities and instruct a QC to draft proceedings to seek a declaration from the High Court, and how Council reconciles its statutory obligations under S.46 of the Internal Markets Act (2020).

It was also agreed the Chief Executive writes to the Cabinet Office to inform them of Council's intentions. The appendix within the previous question demonstrates the

continuous approval to write to Government, including the Cabinet Office, and therefore:

Agreed: That Council, having noted the correspondence in

Appendix 4:

- (i) Authorise the Chief Executive to write letters on Council's behalf to the Department of Agriculture, Environment and Rural Affairs and the Food Standards Agency to advise them of their responsibilities and make clear that Council is not the responsible authority;
- (ii) Instruct a Queen's Counsel to draft proceedings and provide an opinion, together with Junior Counsel, seeking a declaration from the High Court of Council's statutory duty in accordance with Food and Feed law should the department not accept their full responsibility immediately, and further how Council reconciles its statutory obligation under S46 of the Internal Markets Act (2020) not to fetter the free flow of goods; and
- (iii) Recommend the Chief Executive writes to the Cabinet Office to inform them of our intentions given their role of having oversight for the implementation of the NI Protocol should the Department not accept their full responsibility immediately.

The Cabinet Office letter was contained within Appendix 4, all of which had been written under the approvals set out in the table contained. This report, including Appendix 4, was noted by Council on 4 May 2021, and no objections were received. We can clarify the noting of the correspondence was noted by Elected Members, if this has caused some confusion.

(b) Was the letter sent to attendees for review before the meeting?

Yes

(c) Was the letter tabled as a specific document for consideration or included as an appendix with other paperwork?

Please see response to question A. In addition, the letter was contained within an overarching report entitled: **Legal Advices on Council's Function at Larne Harbour Port**

All of this was put forward for consideration by Elected Members at the meeting of full council on 4 May. The information supplied in its entirety is relevant to the agenda of the meeting.