

Written Evidence

Presented to:

Northern Ireland Assembly, Committee for Agriculture,
Environment and Rural Affairs

Evidence Subject:

A - “Request for further information on whether you made a referral to the PSNI in relation to an email sent to your head of HR from a TUS representative raising concerns about threats made using graffiti and “potentially other methods”.

B - (i) the Committee agreed to request sight of the letter that was sent by you, acting in your role as a SOLACE representative, to the HM Cabinet Office, to further inform its investigation and

(ii) “Provide your views on the content and timing of a letter sent by you to the Cabinet Office titled NI Concerns on the Implementation of the NI Protocol.”

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Introduction

1. Mid and East Antrim Borough Council returns to the AERA Committee for a second time in order to give further evidence in relation to two additional points for clarification requested by the AERA Committee.
2. Council would ask Committee members to cross reference this additional information with Council's original 57 pages of evidence previously submitted.
3. We wish to reaffirm that the safety and wellbeing of staff is the top priority of Council's Elected Members, Senior Management Team and Chief Executive, who is also Chief of Staff.
4. As required under the Committee's Terms of Reference (22 April 2021), Council believes it answered very fully and thoroughly the grounds for Mid and East Antrim Borough Council to take the course of action it did in the temporary removal of port staff from Larne Port.
5. Council provided full and thorough evidence to the Committee in relation to all relevant documentation and information that was considered by Council's Elected Members prior to the unanimous, cross-party decision to temporarily withdraw port staff from the Port of Larne pending the receipt of a formal, written Threat Assessment from the PSNI.
6. Since Ms Donaghy's letter to the Cabinet Office date 30 January was neither discussed nor shared with the Elected Members at Group Party Leaders or Full Council meetings, the letter was not included in Council's original 57 pages of written evidence - i.e. it had no bearing whatsoever on the decision taken by elected Members on 1 February.
7. At the previous committee on 22 April 2021, committee members referenced a confidential letter written by Ms Donaghy to the Cabinet Office without the benefit of having this letter in front of the Mayor or Ms Donaghy they were of the belief that the letter was sent on the 3 February. Council wish to clarify it was indeed on the 30 January and there was no letter sent to the Cabinet office on 3 February. The issues raised on the Trade Unions letter had previously reported to PSNI and was therefore a matter of consideration in the PSNI development of their formal Written Threat Assessment.
8. Council's priority is and always will be the health, safety and wellbeing of all its staff and ensuring that 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 everybody's right to life.

Request for additional information (A)

9. Following the previous appearance by Council at the AERA committee, the following was communicated to Council:
10. *The Committee also agreed to request further information on whether you made a referral to the PSNI in relation to an email sent to your head of HR from a TUS representative raising concerns about threats made using graffiti and “potentially other methods”.*

Response

11. Council continuously engaged with the PSNI - in fact 8 correspondences were recorded between Council and the PSNI in the lead up to 1 February, when the email was received from the Trade Union. This is documented clearly in Council’s first 57-page written submission to the Committee (see paragraph 23 and appendix 13 in original submission).
12. Over the course of Friday 29 and Saturday 30 January, the PSNI was informed on a number of occasions of incidents of threatening and sinister graffiti visible in and around Larne Port area, by Council.
13. During these conversations the key focus was on dealing with the issue of the safety of our staff and to respect the confidence of those sources in bringing the information to Council’s attention. As a Council we will always report any issue of concern to PSNI and would rarely identify the source without their explicit instruction.
14. At 1.45pm on Monday 1 February, Council’s Head of Human Resources received an email from a major Trade Union.
15. On receipt of the Trade Union’s email, Council Officers agreed that the issues outlined in the Trade Union’s email, had already been provided to the PSNI by Council and were ensured they were “under investigation”. Indeed, in paragraph 29 of the original evidence, at noon that day, prior to receipt of the Trade Union’s email, local PSNI confirmed they were putting in place additional resources at the Port.
16. The email from the Trade Union outlined concerns for staff safety at Larne Port, noting that staff “appear to have been threatened via graffiti and potentially other methods”. The Trade Union did not specify what these “other methods” were.
17. The issue of threatening graffiti, and indeed other alleged methods, such as the potential recording of vehicle registrations, had already been reported to the PSNI by Council. If the Trade Union had any specific additional information, it would be expected that they would also have reported same through to PSNI in their H & S duties towards their members, as set out in paragraphs 16 and 22 of the original evidence.

18. The Trade Union email was not specifically shared with the PSNI as the issues they highlighted had previously been made known to the PSNI, who were dealing with this and gave assurance that the matter was under investigation. This was not an unusual approach as on a number of occasions the PSNI were advised of alleged incidents and issues, and the source of the information was never disclosed.
19. Council is not aware if the Trade Union shared their email with the PSNI.
20. Council's Head of Human Resources responded to the Trade Union to acknowledge receipt of their email and to assure them that their concerns were being addressed with Group Party Leaders (GPL), and at Full Council later that evening.
21. At around 2.30pm on 1 February, the Chief Executive had a telephone conversation with the PSNI District Commander, ahead of the meeting with both the GPL and Full Council. (this was the second conversation that the Chief Executive had with the District Commander that day)
22. During this discussion, all information known to Council was communicated with the local PSNI and assurance was given by the District Commander to the Chief Executive of an additional resource being put in place. This was noted in paragraph 32 of the original evidence.
23. On the call at 2:30pm, the PSNI said they had a resource plan in place for the area surrounding Larne Port that included an "uplift in resources" and "an increase in way markers".
24. The information from the Trade Union was also raised at the GPL meeting at 3:15pm and at the DAERA meeting, attended by the Minister, at 4:45pm where Ms Donaghy made them aware that Council had received an email from a major Trade Union expressing their concerns about staff at Larne Port. Having been advised by the DAERA Permanent Secretary of the existence of the Gold Command Council felt important they attend. The Chief Executive of Belfast City Council agreed that it would be important that all matters discussed at the meeting also be raised at the Gold Command the next day.
25. A formal, written Threat Assessment was requested on 1 February with local PSNI and again on 2 February at a the Gold Command meeting which took into account the all issues shared with the PSNI regardless of their source. These issues included the matter of threatening graffiti and other concerns which were identified by a number of sources, including the Trade Union.
26. In an email back to the Trade Union from the relevant Council Director on Tuesday 2 February, they were advised that Council continued to assess the situation regarding Larne Port with our statutory partners. The Trade Unions were informed by the Director of Community that the staff were stood down.

27. In the meantime, Council Port staff would remain withdrawn from inspection duties pending the PSNI formal written threat assessment and the Trade Unions would be updated at the next Local Consultation and Negotiation Forum.
28. At the Local Consultation and Negotiation Forum on Thursday 4 February at 10am the Trade Union representatives were updated on the situation. They were advised that Council's priority was to keep staff safe as there were so many unknowns and the situation was a fluid and fast-moving one.
29. The Trade Union was also advised that Council was liaising with the PSNI and that it (the Trade Union) would be kept updated once the PSNI formal, written Threat Assessment was received and Council's risk assessment developed in light of this information.
30. Trade Unions were advised of the return of Council staff to Larne Port in an email on 5 February at 5:15pm.
31. In summary, there was nothing specific in the Trade Unions email which had not already been reported through to the PSNI that were dealing with the matter.

Request for additional information (B)

32. *(i) the Committee agreed to request sight of the letter that was sent by you, acting in your role as a SOLACE representative, to the HM Cabinet Office, to further inform its investigation and*
33. *(ii) I would like to invite you to participate in a virtual committee meeting using our online platform StarLeaf on that date to provide your views on the content and timing of a letter sent by you to the Cabinet Office titled NI Concerns on the Implementation of the NI Protocol.*

Response

Background

34. As far back as June 2018, Mid and East Antrim Borough Council agreed a strategic approach to assessing the impact of the UK's departure from the EU.
35. This included identifying the strategic, practical and technical issues from Brexit which would impact Mid and East Antrim.
36. From 2018 to present, Council has engaged with a range of key stakeholders at regional and national level on this matter.
37. Due to the fluid nature of the Government's Brexit structures, this has included a wide range of officials and political representatives.

38. In January 2021, the significant issue facing Mid and East Antrim Borough Council and other Councils in Northern Ireland was the implementation of the Northern Ireland Protocol, and the ultimate responsibility for transition and domestic readiness sat at Whitehall level with the Cabinet Office.
39. In the same month, Council was informed that its Chief Executive, Ms Donaghy, had been appointed Chair of the Solace EU Exit Task and Finish Working Group.
40. It was from this point Ms Donaghy had a dual role as Chair of the Solace Working Group and Council Chief Executive, with significant crossover and shared issues to be resolved under both remits.
41. This dual role was clearly evidenced and recognised by SOLACE in a press statement it provided to the media on 23 April 2021 in relation to a query around the submission of the letter to the Cabinet Office of 30 January 2021.
42. *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.”*
43. A report to Council on the Chief Executive’s appointment as Chair of the Working Group, tabled on 4 January 2021 highlighted that “The purpose of the group is to manage the implementation of the Northern Ireland Protocol from the perspective of local government, focusing on issues arising as a result of the implementation process as well as the current levels of preparedness across the region for the end of the transition period.”
44. The attached (Appendix 1) Terms of Reference of the Task and Finish Working Group can be summarised into the following key points:
- The continuous monitoring of progress and announcements around EU exit and the impacts of Brexit on local government in Northern Ireland, either directly or indirectly.
 - Articulating the issues to be considered as part of the transition and end of transition arrangements to SOLACE NI by way of verbal updates and written reports;
 - Influencing and contributing to considerations of the implications of the end of the Transition Period on both local government and on Northern Ireland as a whole where this may impact on local government;
 - Identifying risks and mitigating factors at a local government level, for and on behalf of SOLACE NI and all councils within Northern Ireland.

- Reviewing and reporting on changes to legislation arising out EU exit. Analysing and attempting to quantify impact on the delivery of council services;
 - Maintaining good relations with regional government departments and other bodies that have or may have a contribution to the development of a post EU future for NI.
45. Terms of reference also clearly set out the role of the Working Group to influence, articulate and contribute to the wider policy issues. These aligned with engagement with government, which would include the Cabinet Office.
46. The Solace NI Chief Executives received a report (Appendix 2) on 26 January, subsequently shared with the Task and Finish Working Group of 28 January 2021, which outlined some of the wider issues of implementation of the Northern Ireland Protocol and the role of the Working Group in coordinate any issues through the relevant channels. Within the report to SOLACE the key role of the Cabinet Office was outlined, including the need for continued engagement with Cabinet Office / Chancellor of the Duchy of Lancaster.
47. The Cabinet Office had the responsibility for operational domestic readiness up to and after 1 January 2021, and all command papers and operational guidance relating to the Northern Ireland Protocol emanated from the Cabinet Office. The UK formally left the EU on the 31 January 2020 and a transition period was in place to the 31 December 2020. Prior to departure on the 31 January 2020 a specific department for exiting the EU (DExEU) operated. This department was dissolved from the 1 February 2020 and thereafter responsibility for the transition period and UK-EU negotiations were led by the Cabinet Office/ Chancellor of the Duchy of Lancaster. The Cabinet Office is the department responsible for the transition and operation readiness and the implementation of the Northern Ireland Protocol, and therefore it is of key importance that issues of key concern are communicated to the department with responsibility.
48. Within the SOLACE report of 26 January 2021, references were also made to the Northern Ireland Retail Consortium (NIRC), for example, asking the Cabinet Office for easements and extension to Grace periods.
49. This included an NIRC request that the Cabinet Office set up a dedicated group to work across departments with businesses as a type of ‘one stop shop’ and for processes to be simplified. Local Government and the checks carried out by Councils were a key element in improving that supply chain flow, therefore it was logical that the Task and Finish Working Group also engaged with Cabinet Office.
50. In relation to Mid and East Antrim the Council had previously engaged with Michael Gove, who is Chancellor of the Duchy of Lancaster and Minister of

the Cabinet Office from as far back as 2020 in relation to the EU Exit. This had been agreed by Council in November 2020, as part of ongoing engagement with Government on the implementation of the Northern Ireland Protocol.

Context of the Correspondence of letter to the Cabinet Office on 30 January 2021

51. The letter in Appendix 3 written on 30 January to Mr Threlfall from Ms Donaghy re: Northern Ireland Concerns on the Implementation of the NI Protocol.
52. The letter was written less than 30 days into the operation of the Northern Ireland Protocol and reflected significant practical issues which had emerged and needed addressed with pragmatic solutions.
53. The reporting of such issues at this level was within the role and remit of the Task and Finish Working Group, as it had clearly been tasked with identifying risks and mitigating factors, alongside engagement and influencing to deliver resolutions.
54. The letter was a high-level position and its aim was to highlight the emerging issues which were evident on the ground. Again, this aligns to the role of the Task and Finish Working Group.
55. As the Committee can see, the letter clearly states that it was written in confidence and appeals to find a positive resolution. It encourages further engagement and aligns closely with the Terms of Reference of the EU Exit Task and Finish Working Group.

Clarification on the date and letter headed of the letter to the Cabinet Office from the Chief Executive of Mid and East Antrim

56. At the previous AERA Committee Meeting attended by Mid and East Antrim Borough Council, Council was questioned on a confidential letter, sent by the Chief Executive to the Cabinet Office.
57. The date of this confidential letter referred to by the Committee Member was not clarified by him. Without the benefit of having the letter in front of the Mayor or Chief Executive, their recollection (bearing in mind that 57 pages of written evidence had been submitted) was that it was on the 3 February. However, the Chief Executive noted this would need to be confirmed.
58. Council can now confirm that this letter was sent in confidence on the 30 January 2021 to a senior official at the Cabinet Office and that there was no letter sent to the Cabinet Office on the 3 February 2021.

59. This confidential letter of the 30 January, sent to a Senior official at the Cabinet Office, was not included within the 57-page document of evidence submitted to the AERA Committee in its comprehensive timeline of events in the run-up to 1 February 2021, when port staff were withdrawn temporarily due to serious concerns for their health, safety and wellbeing. This was because the letter was not shared with Elected Members and therefore not considered in the unanimous, cross party decision of Council on 01 February to temporarily withdraw Port Staff from the Port of Larne until a formal written Threat Assessment was provided by the PSNI. As such, this letter clearly had no bearing on the decision to temporarily withdraw staff.
60. In clarifying the use of MEA headed paper, it would not be unusual for correspondences from a SOLACE Working Group/Committee Chairs to be issued on the Councils on paper, given that the administration for any Chair is usually carried out by their own Council.
61. It is not uncommon for letters to be issued by a Chief Executive in the context of their dual role as a Council Chief Executive and a position representing SOLACE. Examples of this practice is contained in (Appendix 4).
62. In relation to the letter of 30 January 2021, this was written with no access to SOLACE letter-headed paper, and having clarified in the opening context that the letter was being sent confidentially and in a dual role, and indeed highlighted MEA's specific opinion in relation to Union Connectivity, it was more appropriate to use Council headed paper.
63. In writing the letter in a dual role it allowed the Chair of the EU Exit Task and Finish Working Group, to draw on her first-hand experience at Larne Port as Chief Executive of Mid and East Antrim.
64. Council trusts these clarifications will be helpful for members of the Committee and will be recorded as a matter of clarification from Council. Having outlined to the committee that the said letter was not in front of the Mayor and Chief Executive at the time of questioning, and not in the forefront of their minds as it was not contained within the written evidence prepared.
65. The purpose of the letter was to highlight the ongoing implementation difficulties being experienced by local government and using the Port of Larne as a practical example to demonstrate the point. The ongoing implementation of the protocol is a separate and different issue to the safety of staff.
66. Indeed, at the Council Meeting on 1 February, where the decision was made by the Elected Representatives to temporarily withdraw Council Port staff, an update on the implementation of the NI Protocol was provided separately, as set out in the agenda. This reaffirms that the issue of staff

safety and the implementation of the protocol were treated as two separate issues.

67. At the Council meeting the Mayor began the meeting by going into closed Council with the unlisted item on the Health and Safety of staff. Implementation of the protocol was not discussed at this time but later on item 8.6 the NI Protocol was discussed at length and did not include staff safety.
68. The initial 57 pages of evidence submitted to the AERA Committee, clearly provided a full and thorough answer to the Committee's specified original Terms of Reference on all events which impacted on the decision-making process leading up to the temporary withdrawal of staff.
69. The Committee requested, via email on 22 April 2021, a copy of said letter, and whilst widely available on social media and clearly now in the public domain, Council immediately confirmed they were happy to share this with the AERA Committee.
70. Mid and East Antrim Borough Council has a proud reputation for openness and transparency, and had this letter been deemed in line with the original Terms of Reference, as clearly set out by the Committee, it would have been included.
71. It remains Council's clear position that the letter and its contents did not align to the original Terms of reference provided, given it had no bearing whatsoever on Council's decision to temporarily withdraw staff from Larne Port.

SOLACE NI

72. In submitting this evidence, we felt it would be helpful for the committee to understand the role of the Chief Executive and how that runs in parallel with her role as a long standing member of SOLACE.
73. SOLACE NI is made up of the 11 Chief Executives and whilst other Directors across Local Government have membership of SOLACE, it was agreed that the monthly meetings of SOLACE business should pertain to the Chief Executives only.
74. The purpose of SOLACE is to discuss, develop and oversee implementation and delivery and monitor progress of a wide variety of EU, UK and Northern Ireland issues that impact or can be influenced from Local government. Whilst Local Government in itself represents approximately 4.5% of public spending, its role in community planning means that role of the new Chief Executives from 2015 has expanded into dealing with all areas in public service from education and health and not just the service areas of delivery. This means that the role of a Council Chief Executive is a busy role and the SOLACE provides an affective mechanism for collaborative working across local government as an efficient and effective way to use public resources.

75. SOLACE NI is not a mandatory group for Councils, however it is pleasing that all 11 Councils and their Chief Executives have signed up as a collective approach to deal with cross cutting issues on a voluntary basis.
76. SOLACE NI works in a voluntary, flexible and adaptable way and, since being re-established in 2014, has not to Ms Donaghy's knowledge, approved or formalised operating procedures or rules of engagement as it entrusts the professional judgement of each of its members to do the best they can for local government. During her 12 years as Chief Executive, Ms Donaghy has always found this to be the case, with discussions being mindful and taking due regard of the political environment but not being influenced or directed by same. The informal custom and practice way that SOLACE NI has worked is shaped by each individual Chief Executive's own style experience and judgement.
77. Council's Chief Executive fulfils a number of additional leadership roles in parallel with her primary responsibility as the Clerk and Chief Executive of Mid and East Antrim Borough Council.
78. During her 12 years as Chief Executive was appointed the first female Chair and has held a number roles as Chair of various Working Groups and Committees. These additional roles are voluntary and have no administrative or financial support and therefore are completed by each Chief Executive within their own working arrangements. Various working Groups are established by SOLACE NI to deal with key, emerging and strategic issues and cross over a wide range of important business. Each working group empowers the Chairing Chief Executive to organise the stakeholder engagement required, the Terms of Reference, the frequency of meetings and the agendas with a view to getting the job done despite no extra resources. These working groups are the lifeblood of local government engagement in working with stakeholders to get practical development and implementation of key EU, UK and Northern Ireland legislation procedures and best practice.
79. As senior government officials, the 11 Chief Executives that make up SOLACE NI, are entrusted to exercise their professional judgement to update the wider SOLACE NI meeting on progress in relation to many working groups. For some working group Chairs this may mean monthly updates, whereas others may update less frequently, depending on the business.
80. The Chief Executive of Mid and East Antrim has always been and remains a very active member of SOLACE and indeed the current Chair has recently thanked her for all her support and work in which she has carried out during her term. On a voluntary basis, the Chief Executive of Mid and East Antrim currently chairs four groups on behalf of SOLACE NI and is also a member of a number of external Committees working on issues such as NI Strategic Waste Management and the Chief Executive lead on Community Safety Board.

81. Groups Chaired by Mid and East Antrim Chief Executive
Performance and Improvement Working Group
Local Government Health and Wellbeing Group
Local Government Equality and Diversity Group
EU Task and Finish Working Group

82. In SOLACE NI Chair roles, Council Chief Executives are tasked with ‘getting on with the job’ to progress the remit and objectives of their Working Groups/Committees, in line with Terms of Reference developed by the Group and agreed by SOLACE NI.

Mid and East Antrim Borough Council Chief Executive/ SOLACE roles

83. The Chief Executive’s primary role is Clerk and Chief Executive of Mid and East Antrim Borough Council. On that basis, she informs Elected Members of her acceptance of any additional posts with SOLACE NI, since this means that Council resources will be required to support that work, as is common place with other Councils. The Chief Executive informed Council of her role as Chair of the SOLACE NI EU Exit Task and Finish Working Group on 4 January 2021.

84. 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 continue to work in an integrated and collective way across local government.

85. For example, she updated Council’s Elected Members on the work of the EU Exit Task & Finish Working Group via written reports at Full Council Meetings on Monday 4 January 2021 and Monday 1 February 2021. She also does this for the other groups she Chairs.

Timing of engagement with the Cabinet Office

86. At the SOLACE monthly meeting on 8 January, Ms Donaghy updated the Chief on the implementation of the Northern Ireland Protocol and the challenges facing local government sector. The following week issues around implementation around NI Protocol became so critical that a special emergency meeting was called Chair of the Task and Finish Working Group to the Chair of SOLACE NI, Mrs Jacqui Dixon, by Mrs Donaghy and it was duly arranged for 15 January.

87. 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 Working Group (Appendix 5) SOLACE meeting 15 January)

88. At the meeting attended by most Chief Executives, all agreed on the need to urgency receive clarity on a number of important issues including governance arrangements, accountability, charging and practical obligations. SOLACE Chief Executives further agreed that Ms Donaghy would also be appointed as the SRO 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.
89. In light of the developing issues around the practical and operational implementation of the NI Protocol, Ms Donaghy, as Chair of the EU Exit Task and Finish working group prepared a report outlining a number of issues which was emailed to the Chair of SOLACE NI on 26 January 2021 to share with all other Chief Executives (Appendix 2). In the report, the key role of the Cabinet Office was outlined, and the need for continued engagement was highlighted. References were also made within the report to the Northern Ireland Retail Consortium (NIRC) who had asked the Cabinet Office for easements and an extension to grace period. The NIRC had requested that the Cabinet Office set up a dedicated group to work across local NI departments with business as a 'one stop shop' to simplify the process. The checks carried out by local government are a key component of the protocol and any work to improve the supply chain flow would have a role for local government; therefore it was logical that the task and finish working group also engage with the cabinet office.
90. The report to SOLACE outlined the need for correspondence to continue with the Chancellor of the Duchy of Lancaster (as Minister for Cabinet Office and Senior politicians). 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.

SOLACE Northern Ireland EU Task and Finish Working Group

91. SOLACE established an EU Exit Task & Finish Working Group, with a post funded by DfC to begin work across local Government in preparation for the UK's exit from the EU. The group operated initially from August 2019 to February 2020. SOLACE seconded a Policy Officer for the 6 months from Lisburn City and Castlereagh Council, who Chaired the Group. The Group operated without terms of reference for these 6 Months. All 11 Councils were represented on the group and SOLACE was updated on its progress numerous times. This Task and Finish group was wound up in February 2020 as funding came to an end.
92. Following the UK's departure from the EU on 31 January 2020, it became clear that a transition period would be provided until 31st December 2020.

This allowed time for negotiations between the EU and UK to be held resulting in the international agreements and the NI Protocol. It also provided SOLACE with the opportunity to develop and prepare for smooth implementation.

93. During the transition period for 31 January 2020 it became clear from the Chancellor of the Duchy of Lancaster the Rt Hon Michael Gove that the date for implementation of the EU Exit was going to remain the 1 January 2021. As negotiation as between the EU and UK progressed in the Autumn the matter was placed on the SOLACE NI agenda by the Chair at the November 2020 meeting, where a discussion took place that local government needed to begin work to ensure day one readiness on 1 January 2021. This was of particular importance to the three councils which had the ports, including Larne Port. In recognition of the previous groups work on EU exit it was agreed to further second the same LGLO from Lisburn City and Castlereagh Council due to his knowledge on the issue. This post was funded for 4 months by DfC from 01 December 2020 to 31 March 2021 to allow for the smooth implementation following the end of the Transition period and to identify and resolve outstanding issues.
94. Due to the short time frame, given that implementation was to happen on the 01 January and we were at the beginning of December, the complexities, the lack of clarity and the political context around the NI Protocol implementation, SOLACE recognised that they should have a Chief Executive to Chair the Group, in order to guide, support and work in partnership with the LGLO.
95. At the SOLACE meeting of the 4 December it was agreed that the EU Task and Finish WG be re-established and that it should be led by a Chief Executive. Having thought about it following the meeting, Ms Donaghy felt compelled to offer her services to Chair this group, recognising the importance of day one readiness. Given that Larne Port, unlike Belfast, had not been a border control post previously and this had to be set up, it was incumbent on Ms Donaghy to ensure she had done everything possible to ensure day one readiness. Ms Donaghy contacted the Chair of SOLACE NI after the SOLACE meeting on the 04 December to offer her services and was advised by return on 07 December that this had been approved and she should get on with the job. On the 07 December 2020 Ms Donaghy took up the voluntary role of Chair of the EU Task and Finish Working Group and immediately contacted the LGLO to advise of same and instructed him to begin to organise the first meeting as soon as possible.
96. Each of the 11 Councils identified two senior representatives (Director/Head of Service level) to participate in the EU Exit Task and Finish working Group. It was extremely encouraging that the participants had high attendance in the meetings, thus ensuring a very thorough representation across all Councils at all of the meetings.

97. As Chair of this re-established group, Ms Donaghy began by reviewing the original focus of the first group and it was immediately clear that the remit of the group had moved on due to the passage of time.
98. The original group was tasked to provide a high-level focus on the impact on local government of the UK's decision to leave the EU. This included coordinating the work of local government in its dealings with Government, Emergency Preparedness NI and PSNI. The Chair of the SOLACE NI EU Exit Task and Finish Working Group immediately sought to review the role, scope and what needed to be delivered pre and post 1 January.
99. Following its initial meeting on 14 December 2020, the Chair and the LGLO discussed the workings of the group and the need for develop Terms of Reference and took soundings from the members of the group. The Terms of Reference which accurately reflected the scale of the challenges, the widening scope of engagement and the outcomes required by local government in order to deliver their its obligations. (Appendix 1)
100. These Terms of Reference were developed at a time of uncertainty when no one knew what deal was going to be implemented and therefore attempted to define the scope of an unknown. At the SOLACE meeting one of the Port Chief Executive's noting *"this was one of the most significant challenges that Councils in Northern Ireland had ever faced"*
101. The Chair of SOLACE NI, Mrs Dixon, committed to providing as much SOLACE support as possible to oversee these challenges and in recognition of the large amount of work to be carried in a short period of time stated that the Chair of the group should do what was necessary and report back when convenient.

The work of the NI EU Task and Finish Working Group

102. From the establishment of the NI EU Task and Finish Working Group in December 2020, prior to the letter sent to the Cabinet Office on 30 January, there were 5 meetings, with day one readiness and then emerging issues thereafter.
103. In order to capture all current and emerging issues identified across the 11 Councils, the Chair instructed the LGLO to establish a risk register, along with a heat map to determine what the key risks and challenges were and how they were escalating in terms of priority. Appendix 6 shows the heat map and risk register prior to the writing of the letter. The NI Local Government Emergency Preparedness Officer, Mrs McCaffrey, was also a member of the Task and Finish working group and also provided updates in relation to concurrent emergencies. All risks identified were reported through by the LGLO or NI Local Government Emergency Preparedness Officer, to the NI Hub for consideration and onward escalation if deemed necessary.

104. Day-one readiness within Local Government had been successfully achieved in an extremely tight timescale, however, attention then turned to dealing with rapidly emerging issues, to include understanding roles and responsibilities, governance and accountability. One of the biggest issues was in relation to the governance of the Northern Ireland Protocol implementation and the lack of clarity around the accountability of the Councils and to whom they were accountable.
105. Between each of the EU Exit Task and Finish Group meetings the LGLO set up a mechanism to facilitate continued liaison with the 11 Councils, ensuring that all risks associated with the EU Exit and implementation of the NI Protocol across all 11 Councils collectively were gathered and prioritised. This information was then collated into a risk register and heat map and communicated regularly via the LGLO to the NI Nub, from 1 December 2020 and kept in regular contact with the Chair to keep her update on any issues.
106. Between December 2020 and 30 January 2021, the risk register was updated 6 times, based on feedback received from the 11 Councils and the emergency NI Local Government Emergency Preparedness Officer. This heat map was reviewed by SOLACE on a number of occasions.
107. Through the LGLO, the SOLACE NI EU Exit Task and Finish Working Group fed the local government risks and their priority into the NI Hub coordinated by the NI Civil Service.
108. During this 4 month period of EU exit, the LGLO had the opportunity to engage with a number of key stakeholders, (including DAERA, FSANI, NIO, HM Treasury and other Whitehall Departments), through the NI Hub.
109. As the negotiations continued to progress with UK and EU, the Working Group continued to assess and prepare for the 1 January period, however, this was in a challenging environment.
110. One significant issue to emerge was that the DAERA Port facilities at Border Control Posts were not on schedule to be fully operational on 01 January.

Government Policy Context

111. Negotiations between the UK Prime Minister and the EU Commission President continued well into December and there was no clarity on the practical arrangements required to make the Northern Ireland Protocol operational.
112. On 10 December, the Cabinet Office published a new Command Paper on the NI Protocol, which set out unilateral declarations by the UK and EU and agreement in principle from the Joint Committee.

113. This provided a high-level agreement, but required considerable clarification and supporting guidance to operate.
114. The Government recognised the challenges of the end of the transition period and the lack of clarity for business, and on 10 December announced additional £400m funding to help firms with transferring goods from GB to NI.
115. A dedicated team within DEFRA, under the direction of the Cabinet Office, would work with industry to promote readiness and roll out the new Government funded Trader Support Scheme.
116. Following intensive negotiations, the Withdrawal Agreement Joint Committee formalised their position on 17 December 2020 and made a number of unilateral declarations relating to the Northern Ireland Protocol.
117. On Christmas Eve, the EU-UK Trade and Co-Operation Agreement was made.
118. Although this resolved some issues there was still considerable operational and practical matters which remained outstanding regarding the NI Protocol and its implementation, as identified by Local government and key stakeholders from retail, haulage, steel industry, manufacturing and horticulture etc.
119. At the beginning of January, although a light touch approach was permitted to the checks under the NI Protocol, it emerged very quickly that there were significant issues, including difficulties with the supply chain.
120. As the volume of trade from GB to NI increased in January, further significant issues began to emerge.
121. In response to an urgent question in the House of Commons tabled by Sir Jeffrey Donaldson MP on 13 January 2021, the Chancellor of the Duchy of Lancaster and Minister for the Cabinet office, Michael Gove MP, made a statement on the disruption and set out a number of steps the Government was going to take to improve the flow of trade.
122. It was acknowledged that freight volumes at Northern Ireland ports were not at normal levels for that time of the year and significant issues were noted at Dublin Port.

SOLACE NI EU Task and Finish Working Group Working from 01 January 2021

08 - 15 January SOLACE Meetings

123. Serious emerging issues and practical concerns were raised and discussed at the SOLACE meeting of the 8 January that included the updated reports fed to the NI hub which highlighted the lack of clarity and the risks identified for local government

124. All Chief Executives present agreed that there were a number of key emerging issues around the implementation of NI Protocol.
125. Following issues were highlighted and agreement reached in terms of the need to seek clarity on a range of matters, including governance, enforcement frameworks, staffing, volumetrics, funding, groupage and business issues on the ground.
126. There was a general sense and concern that local government's voice was not being heard and that we would be left with another service to deliver that was not fully funded and this would fall back on our rate payers. This was particularly concerning for the 3 Councils with Ports but the SOLACE NI Chair, Ms Dixon, stressed that this was an issue for all 11 Councils.
127. Ms Donaghy, as Chair of the EU Exit Task and Finish Working Group, contacted the SOLACE NI Chair to raise her concerns in relation to the increasing risks, priorities and widening financial and operational issues for Local Government - particularly those for Port Councils to include Belfast, Newry, Mourne and Down, and Mid and East Antrim.
128. She said: "I have serious concerns regarding Local Government's role in implementing the NI protocol"...We [Local Government] will be left to deal with a difficult, if not impossible situation should all stakeholders not engage fully and constructively".
129. It was discussed that a pragmatic solution could be to widen out the conversations both within NI but also at government level, including Whitehall/Westminster After all, this was a reserved matter and the UK Government had oversight of implementation.
130. It was highlighted by the Chief Executive of Belfast that this could well be the most important and difficult issue SOLACE has ever dealt with. SOLACE require as much assistance in dealing with it as is possible to get.
131. It was subsequently agreed by the group that Ms Donaghy would:
132. keep examining and reporting on the issues via SOLACE & the EU Exit T&F Working Group. Emerging issues in particular to be captured and reported as soon as they are confirmed.
133. Set out the issues as they are understood from SOLACE viewpoint. It was agreed that it was important that a true picture as things were at that time, was provided. Implementation of the Protocol is having to evolve as issues emerge.
134. consider where/who best to engage with at national level. Whitehall or home Government Departments to be considered.

135. Work with EU Exit T&F Working Group to continue to consider the issues around charging and governance in particular. Efforts to engage with NICS to continue. Any other issues thought important by the Chair may be brought to the Group for onward reporting.
136. Ms Donaghy said: “It is important to remember, this is all very new territory. There is no road map or manual to assist”. Much of the work and many of the decisions that have to be made, “This is a very, very fast moving situation and there are very few resources available to help”.
137. A copy of LGLO’s contemporaneous notes are attached in Appendix 7 for the SOLACE meetings on both the 8 and 15 January, which provide a fuller account of the discussions that ensued at the meetings. These meeting notes were provided to the Chair of the EU Exit Task and Finish Working Group following each meeting in order to ensure all actions were captured and followed through.
138. The Chair of SOLACE NI has subsequently requested a copy of these notes and these were provided on 4 May 2021.
139. Responsibility and oversight for the implementation of the NI protocol was unclear. At this stage Ms Donaghy, as Chair, made the meeting aware that local government was communicating with DAERA, DEFRA, FSA and FSA UK, Westminster and Whitehall. It is normal practice for any Council Chief Executive, to liaise with the lead government department on strategic issues as necessary, regardless whether it is with a devolved department at NI level or reserved or accepted at Westminster level. Since this matter was reserved at Westminster level, it was the duty of Ms Donaghy, as Chair of the EU Exit Task and Finish Working Group, to communicate with the relevant lead departmental official at Westminster.
140. On the request of the SOLACE NI Chair, and in agreement with the SOLACE NI Chief Executives, Ms Donaghy verbally updated the Permanent Secretaries Group/SOLACE Group on EU-exit issues on the 19 January 2021. This meeting is held 3 - 4 times a year and invites all Permanent Secretaries along with all Chief Executives. It is jointly Chaired by the Head of the Civil Service or the SOLACE Chair. (Appendix 8)
141. At this meeting, Ms Donaghy raised a number of issues, including governance and accountability; clarity on inspections; charging and official control regulations of the Northern Ireland Protocol for charging; administrative challenges; funding from HM Treasury and the lack of clarity on same and issues with the resourcing volumetric model.
142. A DAERA official acknowledged that some problems had been anticipated and undertook to arrange a meeting with the DAERA Permanent Secretary and DAERA officials to consider highlighted concerns.

143. The DfE Permanent Secretary gave an update on operational issues which, although improving, continued to present challenges.
144. He referred to finding the best way to exploit opportunities and address issues with the Northern Ireland Protocol through the Joint Committee. The Joint committee is co-Chair by European Commission Vice-President Maroš Šefčovič and the UK Chancellor of the Duchy of Lancaster (and Minister for the Cabinet Office) Michael Gove. As the Joint committee is made up of the above the Chief Executive recognised this was a political environment and kept her correspondence from official to official at the Cabinet Office.

28 January

145. The concerns of the 11 Chief Executives were discussed at the meeting of the EU Task and Finish Working Group on 28 January. As Chief Executive of Mid and East Antrim Borough Council, with responsibility for the practical implementation of a border control post at Larne Port, Ms Donaghy could clearly see that these concerns needed raised to the government department that was responsible for the smooth implementation of the NI Protocol.
146. As Chair of the EU Exit Task and Finish Working Group, Ms Donaghy was mandated by SOLACE NI - as reaffirmed at the meeting on 15 January - to raise issues accordingly with the relevant Government Department responsible.
147. Following the meeting on 28 January with the EU Exit Task and Finish Working Group, it was clear from the high level of concerns raised by Council representatives, and the fact that the risk register and heat map clearly showed increased issues and risk, that this needed to be addressed as a matter of urgency. A number of issues remained outstanding and concerns were raising in relation to the practical issues on the ground (most of which still remain outstanding). At this stage both DAERA and FSA made it clear that local government had to get on with the job and they were not addressing the issues highlighted. As this position continued to be the approach, a joint letter written by the Chief Executive of Mid and East Antrim was subsequently sent to the DAERA Permanent Secretary on 8 March (Appendix 9) requesting a meeting with the three Chief Executives with responsibilities for ports. The DAERA Permanent Secretary's response of 12 March (Appendix 9) clearly states the position from January onwards was one of lack of clarity on roles.
148. Having informed SOLACE at the meeting of 08 and 15 January that there was a need to develop the issues more widely, I was confident that I had the full support of SOLACE NI to continue to raise the concerns of the Chief Executives to the lead Government Department with responsibility. In the update report sent to the SOLACE NI Chair on 26 January, and subsequently shared with all Chief Executives, Ms Donaghy highlighted the continued engagement with the Cabinet Office and noted that engagement

would continue in an attempt to resolve the issues. I received no feedback or correspondence from SOLACE in relation to the update report on 26 and the continued engagement as set out in the report and took their silence as an indication to continue on.

149. With a growing number of risks identified across the 11 councils and indeed the shifting to a higher level of priorities on the heat map, it became obvious that the practical and operational issues needed highlighted to the relevant department at a higher level. Contact was subsequently made with an Official, Brendan Threlfall, who was Director of the Transition Task Force (NI), in order to request a conversation.
150. Mr Threlfall was identified as the best point of contact to the Chair of the EU Exit Task and Finish Working Group by Sir Jeffrey Donaldson MP, having been contacted on the recommendation of two constituency MPs from Mid and East Antrim. This is why Sir Jeffrey was subsequently named within Ms Donaghy's written correspondence to the Cabinet Office as he was the representative that advised her of the contact.
151. Following the meeting of the EU Task and Finish Working Group the Chair was so concerned that she had a telephone conversation with LGLO, where Ms Donaghy advised she had got the correct contact through MPs to be Brendan Threlfall and needed to identify the issues in a letter (Appendix 10)
152. On Friday 29 January, along with the LGLO, the Chair of the EU Exit Task and Finish Working Group began to draft a letter to the Cabinet Office based on the key strategic issues that local government was facing including, Charging, Governance, Accountability and performance. Unfortunately, this work was not completed on the Friday due to a number of pressing issues, none less than the rising tensions at Larne Port.
153. On Saturday 30 January 2021, a remote meeting took place with the LGLO and the letter to Brendan Threlfall, Director of the Transition Task Force (NI), entitled: Re: NI Concerns on the Implementation of the NI Protocol was completed. It was written from my perspective as Chair of EU Exit Task and Finish Working Group and Chief Executive of Mid and East Antrim Borough Council outlining the very serious and pressing concerns at both regional and local level.
154. Given Mid and East Antrim is one of three Northern Ireland Council areas with a port heavily impacted by the Protocol, it was very much at the heart of what was a fast-moving, fluid and challenging period with the implementation of the Protocol on 1 January 2021.
155. It was therefore inevitable that as both Chair of the EU Exit Task and Finish Working Group, and Chief Executive of Mid and East Antrim Borough Council, would significant crossover would be experienced when it came to upholding their duties. This included ensuring the smooth implementation

of the Protocol by identifying, highlighting and seeking to remedy a wide range of practical and operational challenges.

156. Faced with this multitude of hurdles, including serious concerns and uncertainty around issues such as staffing, tariffs and infrastructure, Ms Donaghy was duty-bound to raise issues in her dual role as Chair of the SOLACE EU Exit Task and Finish Group, and Chief Executive of Mid and East Antrim.
157. In an attempt to resolve these issues, Ms Donaghy believed this could only be achieved by highlighting these issues to a senior official in the relevant department and was seeking to have a confidential conversation in order to make him aware of the operational issues from an NI perspective. Mr Threlfall was invited to a private conversation to discuss some of the real practical concerns and issues being experienced by local government authorities in implementing the protocol.
158. The purpose of this letter was two-fold:
- (a) To flag concerns on a number of important issues relating to the smooth practical and operational implementation of the NI Protocol at the Ports raised by SOLACE representatives, Task and Finish Working Group and using Mid and East Antrim Council's practical experience from Larne Port ;
 - (b) And to seek a conversation with the senior official within the Cabinet Office to discuss in private the operational issues being faced by local government with the view to securing solutions to the smooth implementation of NI Protocol.
159. The correspondence clearly states "the purpose of my letter is to positively resolve the issues". This was a confidential letter seeking a private conversation with one senior official to another and with a single motivation to resolve the implementation issues.
160. The Cabinet Office has the responsibility for the transition arrangements with the implementation of the NI Protocol. It was therefore appropriate that in her dual role as Chief Executive of a Port Council, as well Chair of the EU Exit Task and Finish Working Group, Ms Donaghy engaged with them on operational matters. The dual role was clearly defined in the opening paragraph of the letter.
161. In setting out this dual role, the name of the EU Exit Task and Finish Working Group was not prefixed with SOLACE, but with no other Local Government group working on implementation issues of the NI Protocol, it is clear which body was being referred to. Most other SOLACE working Groups are not prefixed with SOLACE either.

Context of Letter

162. In the letter, the Chair advises Mr Threlfall in the opening paragraph, that she had previously discussed emerging issues with Mid and East Antrim constituency MPs - Ian Paisley MP and Sammy Wilson MP
163. It would be normal procedure and practise for the Mid and East Antrim Borough Council Chief Executive to engage regularly with the two democratically elected MPs on a wide range of issues of a strategic nature in relation to operational issues across the Borough. It would be common practice for correspondence from MEA Council to Whitehall level officials to include reference to constituency MPs in order to ensure they are aware of the key issues impacting the constituency.
164. The two MPs are key stakeholders with national influence in relation to ensuring these issues are addressed. In the conversations with the MPs Ms Donaghy sought advises as to who would be the appropriate senior official to engage on this specific issue. The MPs advised that Sir Jeffery Donaldson would be able to identify the most appropriate senior official.
165. Ms Donaghy contacted Sir Jeffery and advised him that the two constituency MPs directed her to him so that he could advise her of the most appropriate senior official to contact in relation to the implementation issues. Sir Jeffery provided Ms Donaghy with the name of Mr Brendan Threlfall as the Cabinet Office Director responsible for transition and Northern Ireland Protocol. Reference was made in the letter to the MPs as Mr Threlfall was unknown to Ms Donaghy and it put the correspondence into context as to why it was being sent to him.
166. Within the main body of the letter, the Chair informs Mr Threlfall that she is setting out, at a high level, some of the key practical issues regarding implementation of the NI Protocol as identified at SOLACE, the Task and Finish Working Group and indeed Mid and East Antrim Borough Council, with the Port of Larne being used as a practical example.
167. Issues 1,2,3,4 and 6 of the letter were discussed at various levels of detail within the Council, the Task and Finish Working Group and at SOLACE. In relation to issue number 5 on Union Connectivity, it was made clear in the letter that this was a specific view of MEABC, which was clearly discussed and agreed at a number of Council meetings, in relation to how vital it was to maximise opportunities for the economic supply chain.
168. Within the letter, the Chair outlined some of the concerns in relation to the safety and security of Council staff all of which were set out in Council's previous 57-page written submission to the DAERA Committee.
169. At the time of submitting this evidence, the concerns identified by the EU Exit Task and Finish Working Group and SOLACE Chief Executives, remain unresolved and of great worry for Local Government in terms of a smooth implementation of the Protocol, as expectations of the service begin

to expand, e.g. no funding for the additional staff defined by the FSA as been identified (this is a 9.5% increase in MEA rates) and the governance arrangements and communications between local, regional and national remains unclear. Whilst this a really worrying situation, it is even more pressing for the three Councils that have a Port as we continue to have no movement in relation to the ongoing issues.

170. On 4 February, the Chief Executive of Belfast City Council wrote to the DAERA Permanent Secretary and Director of FSA NI to “set out a number of important concerns which we believe present major and imminent risks which will impact on the viability of the services at the ports.”
171. In this letter, the Belfast Chief Executive added her support for the correspondence written by the Task and Finish Working Group, saying: “I am also aware of the SOLACE correspondence sent by Anne Donaghy, which I am in agreement with.”
172. In response to a letter referred to earlier in the evidence, to the DAERA Permanent Secretary, endorsed by the three Port Chief Executives, we received correspondence to say ‘I am therefore concerned by any apparent misconception that DAERA has any responsibility for the councils statutory duties and would not want to do anything that would perpetuate this misconception. Under these circumstances a meeting to discuss SPS issues would not be appropriate or helpful’ (Appendix 9)
173. In conclusion, Council very much hope that the evidence has provide the Committee with answers to the queries and look forward to answering the committee questions on the 6 May.