



Northern Ireland
Assembly

Committee for Agriculture, Environment and Rural Affairs

Report into Withdrawal of DAERA and Local Authority Staff from Ports

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Powers and Membership

The Committee for Agriculture, Environment and Rural Affairs is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement 1998 and under Assembly Standing Order 48.

The Committee has a scrutiny, policy development and consultation role with respect to the Department for Agriculture, Environment and Rural Affairs and has a role in the initiation of legislation.

The Committee has power to:

- consider and advise on Departmental budgets and annual plans in the context of the overall budget allocation;
- consider subordinate legislation and take the Committee Stage of primary legislation;
- call for persons and papers;
- initiate inquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister of Agriculture, Environment and Rural Affairs

The Committee has nine members, including a Chairperson and Deputy Chairperson, and a quorum of five. The membership of the Committee is:

Mr Declan McAleer MLA (Chairperson)

Mr Philip McGuigan MLA (Deputy Chairperson)

Ms Clare Bailey MLA

Mrs Rosemary Barton MLA

Mr John Blair MLA

Mr Maurice Bradley MLA

Mr Harry Harvey MLA

Mr William Irwin MLA

Mr Patsy McGlone MLA

Table of Abbreviations

Abbreviation	Full Name/Entity
ACC	Assistant Chief Constable
AERA	Agriculture, Environment and Rural Affairs
BCC	Belfast City Council
CCTV	Close-Circuit Television
CEO	Chief Executive Officer
CVO	Chief Veterinary Officer
DAERA	Department of Agriculture, Environment and Rural Affairs
DUP	Democratic Unionist Party
DOJ	Department of Justice
FOI	Freedom of Information
EU	European Union
GB	Great Britain
MEABC	Mid and East Antrim Borough Council
MLA	Member of the Legislative Assembly
MP	Member of Parliament
NI	Northern Ireland
NIPSA	Northern Ireland Public Service Alliance
NMDDC	Newry, Mourne and Down District Council
POE	Ports of Entry
PSNI	Police Service of Northern Ireland
PUL	Protestant, Unionist, Loyalist
SOLACE NI	Society of Local Authority Chief Executives Northern Ireland
SPS	Sanitary and Phytosanitary
TCA	Trade and Cooperation Agreement
UK	United Kingdom

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Executive Summary

1. This report outlines the findings and recommendations agreed by the majority of AERA Committee Members in line with the Terms of Reference of its investigation into the decision made by DAERA and MEABC to withdraw staff from undertaking checks on goods entering Larne and Belfast ports on a temporary basis on 1 February 2021.
2. The Terms of Reference of the investigation are outlined, along with a description of the methodology used to collate information from relevant stakeholders. An analysis of the key issues, in particular the rationale for withdrawing staff, and the veracity of the information underpinning this decision is presented.
3. There were multiple factors that contributed to the decision to withdraw staff from undertaking Protocol-related checks. The primary motivation cited by officials was to protect the safety, health and well-being of staff in the context of graffiti containing threatening messages in the vicinity of POE, and increasing reports about other concerning behaviour between Friday 29 and Sunday 31 January 2021.
4. Further, some senior, influential individuals received information from their network of contacts that they deemed to be credible and led them to believe that there was some degree of paramilitary involvement in these activities, which only served to heighten the concern for staff safety.
5. The PSNI consistently provided verbal assurances to officials at the time that they considered the risk to staff working at POE to be low and that there was no information to substantiate some of the reported activities or to corroborate paramilitary involvement.
6. Officials at MEABC and DAERA reported that the lack of a written threat assessment from the PSNI was a contributory factor because they considered that the verbal updates that they received in the days prior to 1 February 2021 did not provide sufficient assurance about the underlying risks. Once a written threat assessment was issued to stakeholders on 4 February 2021 by the PSNI, work was commenced to return staff to their duties.

7. Organisations responsible for staff working at POE took different approaches to the reported threat(s) and decision-making with regards staff withdrawal based on the local context, their individual engagement with the PSNI and risk-management processes.
8. The perceived risk to staff safety, and therefore the rationale for DAERA and MEABC's decision, appears to have been predominantly based on verbal reports that officials received from grassroots contacts that were deemed by senior PSNI officers to be unsubstantiated and were in contradiction to the PSNI's assessment that the risk to staff was low.
9. The Committee therefore considers that there was limited justification for suspending staff from undertaking SPS checks and did not identify any evidence to indicate that this decision was proportionate to the full range of information available to DAERA and MEABC officials at the time in relation to the potential threats.
10. Over the course of its investigation, the Committee identified several issues relating to correspondence sent by the CEO of MEABC to the UK Government Cabinet Office on 30 January 2021 which outlined a range of operational challenges associated with the Protocol and cited paramilitary involvement in the activities that were deemed to be a security risk to staff.
11. Further, the Committee also found a number of concerns regarding the quality and credibility of some of the evidence provided by MEABC due to several contradictions and inconsistencies in the information, including:
 - The CEO initially told the Committee that she composed the Cabinet Office letter in her capacity as Chairperson of a Task and Finish Group of SOLACE NI and then later informed the Committee it was written in a dual role as Chairperson of the Group **and** her position as CEO of a local authority
 - The Cabinet Office letter was not provided to the Committee upon its initial request for information and the MEABC CEO explained that this was, in part, because the correspondence was confidential. However, the Committee later

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identified that the letter had been shared with multiple elected representatives
two days after it had been issued

- The CEO briefed elected representatives at an MEABC Full Council meeting on 1 February 2021 that she could not be sure of paramilitary involvement in the activities in the vicinity of Larne Port and required a written assessment from the PSNI to determine this, less than 48 hours after stating in the Cabinet Office letter that she was “*aware of the involvement of paramilitaries*”
 - The Mayor of MEABC intimated when giving oral evidence to the Committee that he had not seen the Cabinet Office letter and it was later identified that it had been sent to him via email on 1 February 2021
 - Third party stakeholders contacted the Committee to raise points of clarity with regards some of the information provided by MEABC
- **Recommendation 1:** Any staff member who was stood down and/or suspended from undertaking SPS checks during the time period under investigation should be informed by their employer that the PSNI’s consideration was that the risk to their safety was low and that they had no information to substantiate paramilitary involvement in the activities reported during this time
 - **Recommendation 2:** The identity and details of grassroots contacts that provide information to senior officials should be disclosed fully to law enforcement agencies, as required, in order to ensure that relevant authorities have comprehensive information to enable them to interrogate the veracity of claims/purported threats
 - **Recommendation 3:** Officials at MEABC should correspond with the Cabinet Office and clarify in writing that the PSNI’s assessment of the risk to staff at POE as at 30 January 2021 was low and that the PSNI had no information at the time, nor has it received any since, to substantiate paramilitary involvement
 - **Recommendation 4:** The risk management processes at DAERA and MEABC should be reviewed to identify any learning with regards the documenting of risks to port staff during the period 21 January to 4 February 2021

Terms of Reference

1. The AERA Committee agreed to focus on the following issues as part of its investigation:

- Establishment of a timeline regarding discussions that took place between officials in the local authorities and DAERA that led to the decision to withdraw staff including those that took place on 31 January 2021 between the then Minister, Edwin Poots, and the DAERA Permanent Secretary
- Determining how DAERA and the relevant local authorities gathered, assessed and reported on alleged threats to staff working at ports, to whom within each organisation this information was provided and who made the decision to withdraw staff
- The rationale for deciding that staff should return to their duties
- Consideration of the difference in approach between councils and the rationale to remove/maintain council staff at ports
- Establishing what consideration was given by DAERA and MEABC to the assessments provided by the PSNI with regards the potential threat to staff

Methodology

1. The Committee collated a range of written and oral evidence from a number of organisations between March and June 2021 that were involved and/or were relevant to the investigation Terms of Reference as summarised in the below table:

<i>Stakeholder</i>	<i>Written Evidence Submitted</i>	<i>Oral Evidence</i>
DAERA	8 April and 23 June 2021	Dr Denis McMahon (Permanent Secretary), Dr Robert Huey (CVO) and Mr Mark Livingstone - 15 April 2021 Mr Edwin Poots, MLA (Minister) – 3 June 2021
PSNI	21 April, 4 May and 17 June 2021	ACC Bobby Singleton – 15 April 2021 ACC Singleton and ACC Mark McEwan – 6 May 2021
MEABC Trade Union representatives	4 March 2021	Mr Alan Perry (GMB), Mr Alan Law (NIPSA) and Mr Kieran Ellison (Unite) – 11 March 2021
MEABC	16 April, 4 May and 11 June 2021	Ms Anne Donaghy (CEO) and Councillor Peter Johnston (Mayor) – 22 April 2021 Ms Donaghy and Councillor Johnston – 6 May 2021
BCC	26 April 2021	Mrs Suzanne Wylie (CEO) and Ms Siobhan Toland – 29 April 2021
NMDDC	26 April 2021	Ms Marie Ward (CEO) and Mr Eoin Devlin – 29 April 2021
Belfast Harbour Commissioners	13 April 2021	/
Solace NI	5 May 2021 and 1 June 2021	/

2. The Committee team collated and reviewed the information received and a summary of evidence was presented to Members who considered this in closed session on 10 and 23 June 2021 to agree their findings and deliberations in relation to the issues of concern.

Background and Context

Brexit and the Northern Ireland Protocol (the Protocol)

1. Following the decision made by the general public in the referendum held in June 2016 that the UK should leave the EU (commonly referred to as Brexit), there was a lengthy period of negotiation between both entities on the terms of the UK's withdrawal culminating in the passage of legislation at the UK Houses of Parliament in January 2020 – “the withdrawal agreement”. A further 12-month “transition period” was facilitated by this agreement in order to allow the UK government and the EU to negotiate the terms of a future trading relationship.
2. A key element of the “withdrawal agreement” was the establishment of the NI Protocol, “the Protocol” which secured the UK's exit from the EU as a single entity on the basis that NI would continue to align with the customs arrangements of the EU.
3. Over the course of the transition period there was on-going discussion between UK and EU partners on their future engagement and the “EU-UK Trade and Cooperation Agreement (TCA)” was signed on 30 December 2020, setting out the parameters for operation in relation to trade, state-aid and “level-playing field” provisions for different sectors of the economy.
4. Following agreement of the TCA, the full terms of the withdrawal agreement, and therefore the responsibilities as set out under the Protocol, immediately came into effect on 1 January 2021. One of the specific consequences was that officials at NI ports were obligated to undertake checks on goods transported from GB in order to ensure compliance with EU regulations, given the alignment of NI with the EU's customs arrangements. These checks had previously only been carried out for goods of origin outside of the EU and the Protocol-related checks placed a significant added workload, and responsibility, on local ports given the volume of trade between GB and NI.

Checks Required by the Protocol

5. The Protocol requires the completion of SPS checks on certain goods shipped from GB into POE in NI, in advance of their potential onward transit to the Republic of Ireland, and therefore into the EU.

6. The designated POE are:
 - Belfast Port
 - Larne Port
 - Warrenpoint Port
 - Foyle Port
 - Belfast International Airport

7. The responsibility for undertaking SPS checks is shared between DAERA and local councils as the competent authorities for appraising imports:
 - Three local councils, MEABC, BCC and NMDDC complete checks at the POE situated within their locality in relation to fish/fishery products, as well as products of non-animal origin for human and non-human consumption

 - DAERA officials undertake physical inspections of the goods listed above, as well as SPS checks on live animals and plants/plant products

Timeline of Events

1. A timeline of the events, discussions and actions that took place between 21 January to 10 February 2021 is outlined below, highlighting the key interventions of organisations and individuals that led to the decision to withdraw staff temporarily from completing SPS checks at ports and the resumption of these duties:

Thursday 21 January 2021

- Graffiti is identified close to Larne Port stating “*All Border Post Staff are targets*”
- A member of agency staff working for MEABC at Larne Port reports the graffiti to their Line Manager who subsequently escalates it to Ms Anne Donaghy, CEO of MEABC
- Ms Donaghy asks the Director responsible for Larne Port to report the emergence of the graffiti to the PSNI and the staff member’s agency is notified
- PSNI ACC McEwan convenes a stakeholder meeting following the emergence of the graffiti
- BCC officials make contact with DAERA regarding the graffiti in Larne, enquiring if DAERA was aware of any issues for staff working at Belfast Port
- DAERA issues a memo to its staff working at ports advising that the PSNI were investigating the emergence of the graffiti and that it appeared to be an isolated incident. The memo urged staff to report any suspicious activity to their manager

Friday 22 January 2021

- MEABC Director responsible for staff working at Larne Port notifies the PSNI District Commander for Mid and East Antrim, Superintendent Michael Simpson, of the graffiti and he advises that the PSNI is aware, consider there to be no threat and that it was an isolated incident. Ms Donaghy is informed of this

- A number of political representatives contact Ms Donaghy, raising concern about the graffiti and ask for it to be removed

Saturday 23 January 2021

- MEABC organise for a contractor to remove the graffiti

Sunday 24 January 2021

- No key actions or events noted

Monday 25 January 2021

- DAERA officials reply to BCC email of 21 January 2021 advising that, based on conversations with the PSNI, MEABC and Trade Union representatives, they were not aware of any specific issues in Belfast in relation to graffiti directed at port workers

Tuesday 26 January 2021

- A member of BCC staff at Belfast Port enquires with their line manager about reports in the media of graffiti pertaining to staff working at Larne Port. Staff member is advised that the responsible BCC Director has sought information from DAERA who were liaising with the PSNI and that there was no information to indicate any issues at Belfast
- At 4.30pm BCC facilitates meeting with Trade Union representatives about staffing issues at Belfast Port – no concerns about any potential threat(s) to staff safety are communicated

Wednesday 27 January 2021

- In light of several reports in local media outlets highlighting the emergence of graffiti in and around Belfast referencing discontent with the Protocol, BCC Officials email

Harbour Police to seek assurance and request additional support to maintain security at Belfast Port

- PSNI ACC McEwan attends a meeting of the NI Affairs Committee and highlights growing discontent and tension in PUL communities, that had not “*yet manifested itself in any out workings*”. A number of political representatives contact Ms Donaghy raising these comments as a matter of concern
- At an MEABC Policing and Community Safety Partnership meeting, elected councillors from MEABC question the local PSNI District Commander on the emergence of threatening graffiti at Larne Port. The District Commander advises that the PSNI is monitoring the area around Larne Port, that an active investigation is on-going and that there is no immediate threat to staff

Thursday 28 January 2021

- Harbour Police reply to BCC email of 27 January advising that they will increase patrols in the vicinity of Belfast Port as a measure to provide reassurance for staff
- SOLACE NI EU Exit Task and Finish Group meeting held at 12:00 chaired by Ms Donaghy (appointed Chair)
- Dr Robert Huey, CVO at DAERA, briefs attendees on the on-going work by DAERA in relation to the checks that had been introduced at local ports as a result of the UK's exit from the EU
- During the briefing Dr Huey raises the issue of the recent emergence of graffiti in the vicinity of Larne Port and explains that while this was of interest to DAERA, the PSNI had advised that the graffiti was not related to any organised group, that it did not present a threat and that the information that he had was that young people were responsible for it

- Ms Donaghy raises concerns about the graffiti and specifically the potential risk to staff working at ports. Ms Donaghy advises the attendees that *“talks at grass roots level were ongoing in relation to this”*
- The Committee was told that after the Task and Finish Group meeting, Ms Donaghy phoned a Local Government Liaison Officer advising that she needed to highlight concerns relating to the Protocol in a letter to the Cabinet Office and that she had identified the appropriate contact via advice from local MPs to be a Mr Brendan Threlfall
- A journalist from the Sunday World contacts the PSNI advising that an anonymous caller had made a threat against staff undertaking EU-related checks at ports, stating they were now legitimate targets and that they should desist. PSNI undertake an investigation and conclude that there was nothing to substantiate or corroborate claims that paramilitary groups were involved or behind such threats

Friday 29 January 2021

- At a DAERA Gold Command meeting Dr Huey relays the concern communicated by Ms Donaghy at the Task and Finish Group meeting the previous day where she had queried the PSNI’s assessment of the potential threat to staff working at Larne Port
- Based on information contained in MEABC evidence, the Committee understands that a senior MEABC official, either Ms Donaghy or the Director responsible for Larne Port, calls Superintendent Simpson (unclear from MEABC written evidence) and raises concerns about paramilitary involvement in the graffiti attacks. On receipt of this information the PSNI ran their threat and intelligence assessment which determined there was no paramilitary involvement. Superintendent Simpson conveyed this to MEABC
- Ms Donaghy informed the Committee that she was contacted via phone by an official at DOJ seeking feedback as to what was happening “on the ground” in Larne. The official referenced the Task and Finish Group meeting held the previous day

and the suggestion made by Dr Huey at this meeting that young people were responsible for the graffiti.

Ms Donaghy claimed that she told the DOJ official that she had been informed by a political representative, who had heard through grassroots contacts, that the individual potentially responsible for the graffiti allegedly had a previous drug dealing offence and links to organised crime. It was also reported by this political representative that a PSNI officer had referred to the graffiti *“as being a ‘sinister incident’”*

- Ms Donaghy and the Liaison Officer begin 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
- A staff member working at Larne Port informs their Line Manager of video footage shared on an “Anti-Protocol” social media page that purportedly showed vehicles of staff working at the port. This concern was raised to the responsible MEABC Director along with reports that cars appeared to be travelling at slow speed and/or were stationary for periods of time near the port. The Director informs Ms Donaghy of these issues

Saturday 30 January 2021

- Ms Donaghy told the Committee that she was informed by political sources that the individual suspected of being responsible for the graffiti was alleged to have links to organised crime gangs albeit that they had done so *“without sanction or direction from others”*
- Ms Donaghy attempts to contact Dr McMahon at DAERA but is unable to reach him
- Ms Donaghy contacts Mr Edwin Poots and informs him of the alleged, but unconfirmed, issues with regards potential threats to staff working at Larne Port. Mr Poots informs Ms Donaghy that he is aware of similar reports and that he would seek further information from his network of contacts. Mr Poots tells Ms Donaghy that he had been informed of allegations that the vehicle registrations of staff

working at Larne Port had been recorded, that there was an increase in stationary and slow-moving vehicles near the Port and that he had received information via CrimeStoppers of a number of port staff being specifically targeted

- Ms Donaghy spoke twice with Superintendent Simpson on 30 January 2021 and informed him that she was aware of:
 - A report about an individual DAERA port worker having been followed after her shift at Belfast Port ended and having graffiti sprayed close to her home
 - Information being logged via CrimeStoppers about specific threats made to port staff
 - Staff car number plates being recorded

Superintendent Simpson informs the intelligence branch who advise they had received similar reports anonymously and that the information was considered to be uncorroborated and unsubstantiated. Ms Donaghy is advised of this

- Ms Donaghy facilitates a remote meeting with the Liaison Officer to complete the letter to Mr Brendan Threlfall at the Cabinet Office outlining a number of concerns regarding the implementation of the Protocol and this is sent via email at 2.52pm
- Ms Donaghy forwards the correspondence to DUP MPs Ian Paisley and Sammy Wilson via email at 2.53pm stating that “[I] will officially send it to you on Monday”

Sunday 31 January 2021

- Mr Poots contacts Dr McMahon expressing his concern about the safety of staff and advises that Ms Donaghy had made contact with him about her concerns in this regard. Mr Poots informs Dr McMahon that he has had discussions with a number of politicians who raised similar concerns about potential threats. Dr McMahon advises Mr Poots to inform the PSNI of the reported concerns

- At some time in the evening Mr Poots calls PSNI ACC Barbara Gray to inform her of the concerns that had been communicated to him by Ms Donaghy and other politicians. ACC Gray informs Mr Poots that a call had been logged via CrimeStoppers containing a “coded threat” towards staff working at ports. ACC Gray informs Mr Poots that any suggestions of paramilitary involvement are considered to be unsubstantiated
- At 9.30pm Mr Poots contacts Mrs Suzanne Wylie, CEO of BCC, via phone and asks Mrs Wylie if she is aware of the graffiti in Larne. The Minister expresses his concerns about the graffiti and potential threat to staff and informs Mrs Wylie that Ms Donaghy had raised her concerns about this to him. Mrs Wylie advises Mr Poots that she would seek further information as to the knowledge officials in BCC had regarding the potential risk

Monday 1 February 2021

- Mrs Wylie asks the Director responsible for Belfast Port about the organisation’s awareness of the potential risk to port staff and what action(s) had been taken. The Director advises that there had been contact with Harbour Police the previous week and that they had commenced increased patrols in the vicinity of Belfast Port
- Political representatives inform Ms Donaghy of growing tensions manifesting in Larne over the weekend including increased prevalence of graffiti and signage
- Mrs Wylie calls Ms Donaghy and advises that Mr Poots had phoned her the previous evening. Mrs Wylie and Ms Donaghy discuss the situation and Ms Donaghy raises her concern about the safety measures at Larne Port, highlighting the single entrance/exit route. Ms Donaghy informs Mrs Wylie that she has received information from a number of sources about the potential threat and that she had passed her concerns to the PSNI. “*Given the safety and political issues surrounding the port*”, Ms Donaghy advises that she intends to request an urgent meeting with DAERA officials and the Minister

- Ms Donaghy sends emails to a number of elected representatives informing them that she had sent correspondence to Mr Threlfall at the Cabinet Office:
 - 9.26am to MPs Sammy Wilson, Ian Paisley and Sir Jeffrey Donaldson explaining the letter was sent *“in relation to my ongoing concerns at the Port of Larne and the NI Protocol”*
 - 9.38am to Mr Poots’ Private Office with a message of thanks for taking Ms Donaghy’s call at the weekend
 - 9.41am to Cllr Greg McKeen, copied to MEABC Head of Communications
 - 10.29am to Mr Gordon Lyons MLA
 - At 10.30am Ms Donaghy emails DAERA officials requesting an urgent meeting that is scheduled for 4.45pm
 - BCC Director corresponds via email with the PSNI and Trade Union representatives to ascertain if they had any new/additional information regarding the situation and it was confirmed that there was no evidence to suggest a specific threat in Belfast
 - At approx. midday, Mr Poots phones Dr McMahon to register formally his concern about the health, safety and security of DAERA staff working at the ports. Mr Poots also advised Dr McMahon to contact the PSNI to ensure that they had a full understanding of the situation
 - Dr McMahon contacts PSNI ACC McEwan who advises that the PSNI’s assessment of the situation had not changed i.e., the threat to staff was low, that the PSNI was gathering additional intelligence through local police and was organising a stakeholder meeting for the following day
 - Superintendent Simpson calls Ms Donaghy and advises that additional PSNI crew would be deployed in the vicinity of Larne Port given the reports of escalating tensions over the weekend
 - At 1.45pm a NIPSA representative sends an email to the head of Human Resources at MEABC explaining that a senior officer at Unite had informed him that staff working at Larne Port had been threatened by graffiti *“and potentially other methods”* and that he was seeking assurance that MEABC was risk assessing the issue and that security measures would be introduced
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- At 1.50pm Mrs Wylie phones PSNI Belfast Commander Chief Superintendent who advises that the threat level was low and there was no information to suggest that the graffiti that had appeared in Belfast was carried out under the auspices of any specific group. He informed Mrs Wylie that she would be alerted immediately if the PSNI had any information that an individual or group of staff was under threat
- At approx. 2.30pm Superintendent Simpson calls Ms Donaghy to confirm that increased PSNI resources would be deployed in and around Larne Port
- Trade Union representatives for MEABC staff meet with the MEABC Mayor who advises that a Group Party Leaders meeting is scheduled for 3.00pm. Trade Union representatives were advised that MEABC officials had been in contact with the PSNI who had stated there was no threat to staff
- At 3.15pm an MEABC Group Party Leaders Meeting is called and Ms Donaghy and the Mayor inform the attendees that:
 - There had been multiple reports received of threatening and worrying behaviour over the weekend that had led to a concern about the risk to staff safety at Larne Port
 - There was ambiguity in the details received and the information had not been substantiated by the PSNI
 - The PSNI had confirmed rising tensions at grassroots level in the PUL community
 - The PSNI was increasing deployment of resources to Larne Port (see page 41)

The attendees agreed, on a unanimous and cross-party basis, that the safety of staff was paramount and that staff should be withdrawn from Larne Port temporarily until a clearer understanding of the potential threat was available via a written threat

assessment from the PSNI. The attendees agreed that the issue should be tabled at the Full Council meeting scheduled later that evening

- Ms Donaghy speaks with the Director responsible for staff working at Larne Port and advises her that the Group Party Leaders had recommended that staff should be withdrawn, subject to ratification at the Full Council meeting. Ms Donaghy informed the Director to be ready to withdraw staff

- ACC McEwan issues a statement outlining the PSNI's position: *"The safety of staff working at points of entry is of the utmost importance to us. Where we have any credible information we will share that with our partners and take appropriate action. We have increased patrols at Larne Port and other points of entry in order to reassure staff and the local community."*

- At 4.37pm the head of Human Resources at MEABC replies via email to the NIPSA Trade Union representative's email sent at 1.45pm stating that *"I have been advised that Group Party Leaders are meeting in relation to this and Council are also meeting with Minister Poots later today on this matter, and it will also be discussed at Full Council tonight."*

- 4.45pm – ad hoc meeting requested by Ms Donaghy attended by Dr McMahon, Dr Huey, Mr Poots, MEABC Director of Corporate Services, Liaison Officer and Mrs Wylie from BCC:
 - Attendees discuss the graffiti and reports of activity over the weekend of 30-31 January 2021

 - The differing infrastructure and security measures at Belfast and Larne Ports was highlighted

 - Mr Poots advises that he had investigated the alleged reports and was satisfied that the concerns around Larne and Belfast Ports were real and that he was *"dismayed to hear"* what had been reported to him

- Mr Poots explains that the *“feedback he had received from political representatives was that there was at least some paramilitary involvement in the issues”*
- Mr Poots mentions the comments made by the PSNI at the NI Affairs Committee the previous week in relation to growing discontent in the PUL community
- Mr Poots expresses his concern about the risk to staff safety and references information that had been provided via CrimeStoppers that individual port staff were being targeted. Ms Donaghy advises she had received the same information from various sources
- Mr Poots advises that he had a duty of care for DAERA staff working at the ports and reminded Ms Donaghy and Mrs Wylie of their responsibility in relation to council staff
- Mr Poots expresses surprise at the PSNI’s assessment that the threat level was low and dissatisfaction at how the PSNI had handled the situation
- Ms Donaghy explains that a number of concerns had been raised over the past week and that she had received an email from a major Trade Union that day highlighting their concern about Larne Port staff
- Ms Donaghy informs attendees that the MEABC Group Party Leaders had agreed unanimously to bring forward a recommendation at the Council meeting that evening to withdraw staff on a temporary basis, pending receipt of a written PSNI threat assessment
- Dr McMahon highlights DAERA’s low tolerance for health and safety risks and Dr Huey informs the group that DAERA had advised its staff that morning not to travel to ports in their own car if they felt uncomfortable about the situation

- Ms Donaghy expresses alarm and concern about not being involved in the PSNI Gold Command Meetings
- At approx. 5.30pm Mrs Wylie has phone call(s) with PSNI Belfast Chief Superintendent who reiterates that the PSNI's assessment is that the level of threat at Belfast Port is low, that there was no graffiti in Belfast specifically referencing port staff and that there was no information to suggest the graffiti was being orchestrated by an organised group
- 6.06pm: Ms Donaghy emails Mayor Johnston a copy of the correspondence that she sent to the Cabinet Office
- 6.30pm: Full Council Meeting at MEABC where the issue of staff safety was discussed in closed session by all 39 elected members. Ms Donaghy briefs attendees as follows:
 - Outlined the range of concerns that had come to light and advised that she was very unclear as to the veracity of the information received
 - Advised that the fact that the PSNI had a Gold Command Meeting structure in place reinforced the seriousness of the situation (see pages 41-42)
 - Given the lack of full detail Ms Donaghy advised that she felt she needed a formal written threat assessment from the PSNI
 - The Mayor stated that Trade Union representatives had raised serious concerns about suspicious activity including recording of staff vehicle registration plates at Larne Port (see page 42)

A councillor asks if there was paramilitary involvement in the activity and Ms Donaghy reported that she did not know the source(s) of the threat and that was

why a formal PSNI assessment was being requested because she “*had no way of finding out other than through the PSNI*”

- MEABC Councillors ratify on a cross-party and unanimous basis the decision to withdraw staff from Larne Port, pending receipt of a written threat assessment from the PSNI
- In the evening Mr Poots calls Dr McMahon and requests DAERA staff to be stood down at Belfast and Larne Ports given the risks that had been identified. Mr Poots advises that he was not convinced that the PSNI has a full understanding of the risk(s) based on the feedback he had received. Mr Poots emphasises the duty of care DAERA officials had for staff safety and highlighted the action taken by MEABC to withdraw its staff from Larne Port
- Dr McMahon calls Dr Huey to discuss the situation and they collectively decide to suspend DAERA staff undertaking physical checks on goods at Larne and Belfast ports on a temporary basis in view of the fact that a written threat assessment from the PSNI was outstanding, new information had come to light from MEABC officials, MEABC had decided to withdraw staff from Larne Port, staff at both Belfast and Larne Ports had raised concerns about the potential threat, and that a DAERA-specific risk assessment needed to be developed
- At 7.25pm Ms Donaghy texts Mrs Wylie to inform her that MEABC had agreed to withdraw staff from undertaking checks at Larne Port
- At 7.42pm the MEABC Director responsible for staff at Larne Port directs the 12 Environmental Health Officers to leave the port
- At 8.40pm, BCC Director responsible for Belfast Port speaks to PSNI Chief Superintendent who confirms that there has been no change in assessment of risk. Following reports in the media of MEABC’s decision to withdraw staff from Larne Port, BCC officials communicate with BCC staff working at Belfast Port about the situation:

- Staff were informed of the advice received from the PSNI earlier that day, that the level of threat was considered low and not related to any organised group
- In light of the fact that DAERA officials were withdrawn from Belfast Port, BCC staff could not conduct the full range of SPS checks, therefore BCC staff were advised to remain at the port to undertake documentary checks
- At 10.26pm Mr Poots posts the following message on Twitter: *“In consultation with my staff I have decided to withdraw staff from Belfast and Larne ports tonight. There safety remains paramount. I have spoke to HMG Ministers and outlined the issues of concern. I welcome the support of my party leader in making such a significant decision”*
- Officials at NMDDC contact colleagues at BCC and MEABC to clarify the position with regards withdrawal of staff. NMDDC officials decide to ask the staff member due to start shift at Warrenpoint Port at 04.30am to work from home as a precautionary measure. This staff member did not receive the messages sent to their mobile phone regarding this until they had arrived at the Port and started work

Tuesday 2 February 2021

- NMDDC officials liaise with PSNI to establish if there is an increased risk to staff attending Warrenpoint Port and the PSNI advise that there is no information or intelligence to suggest that there was any risk or threat to staff at the port. NMDDC therefore decide to not withdraw staff from undertaking duties
- Mrs Wylie speaks with PSNI ACC who advises that there has been no change in the information/intelligence received about the risk to port staff. Mrs Wylie requests a written report of the PSNI’s threat assessment
- At 11.45am the PSNI facilitate an exceptional Partners Group meeting with representatives from local councils, the DOJ and Northern Ireland Office (in addition to regular invitees to weekly partner meetings that had been running since October 2020). The PSNI confirm their assessment that the threat was considered to be low

and agreed to provide a written assessment to stakeholders. After the meeting ACC McEwan issues a statement to the media: *“I am concerned about signs of tension within the community in recent weeks. We’ve seen graffiti at various sites and other forms of intimidation on social media....in relation to an anonymous piece of information claiming paramilitary involvement in threats, I have briefed partners that we have no information to substantiate or corroborate these claims at this time”*

- Mr Gordon Lyons MLA took over responsibility as Minister for DAERA on an interim basis in place of Mr Poots
- 5.08pm: Ms Donaghy sends a copy of the Cabinet Office letter to Mrs Arlene Foster MLA

Wednesday 3 February 2021

- DAERA officials produce a draft DAERA risk assessment
- DAERA officials correspond with ACC McEwan via email asking for the written PSNI threat assessment to be shared with DAERA formally
- PSNI facilitate a stakeholder meeting attended by DAERA
- MEABC officials contact the PSNI asking for the formal written threat assessment. The PSNI replied to say that it is in progress and they intend to issue it later that day

Thursday 4 February 2021

- Ms Donaghy contacts the PSNI Office of the Chief Constable twice to seek the outstanding threat assessment
- At 2.09pm PSNI disseminate written threat assessment via email to relevant stakeholders which documents that the threat/risk to staff working at ports is considered to be low

- DAERA officials meet to update its risk assessment and consider specific mitigations to be introduced at each POE in light of the PSNI's written assessment
- Ms Donaghy meets with the Director responsible for staff at Larne Port to discuss and produce MEABC risk assessment
- PSNI facilitate a stakeholder meeting

Friday 5 February 2021

- DAERA officials meet representatives from local councils
- Dr Robert Huey visits Larne and Belfast ports
- PSNI facilitate a stakeholder meeting
- At 3.34pm Ms Donaghy directs MEABC staff to return to work at Larne Port with immediate effect
- At 4.59pm Ms Donaghy emails the MEABC Mayor and Group Party Leaders explaining that the council had received the PSNI's written threat assessment, had developed its own risk assessment and confirmed the return of staff to duties
- At 5.15pm Ms Donaghy emails Trade Union representatives of staff working at MEABC advising them of the decision to return staff to Larne Port

Saturday 6 – Sunday 7 February 2021

- No key actions or interventions

Monday 8 February 2021

- PSNI issue updated written threat assessment to stakeholders outlining no change

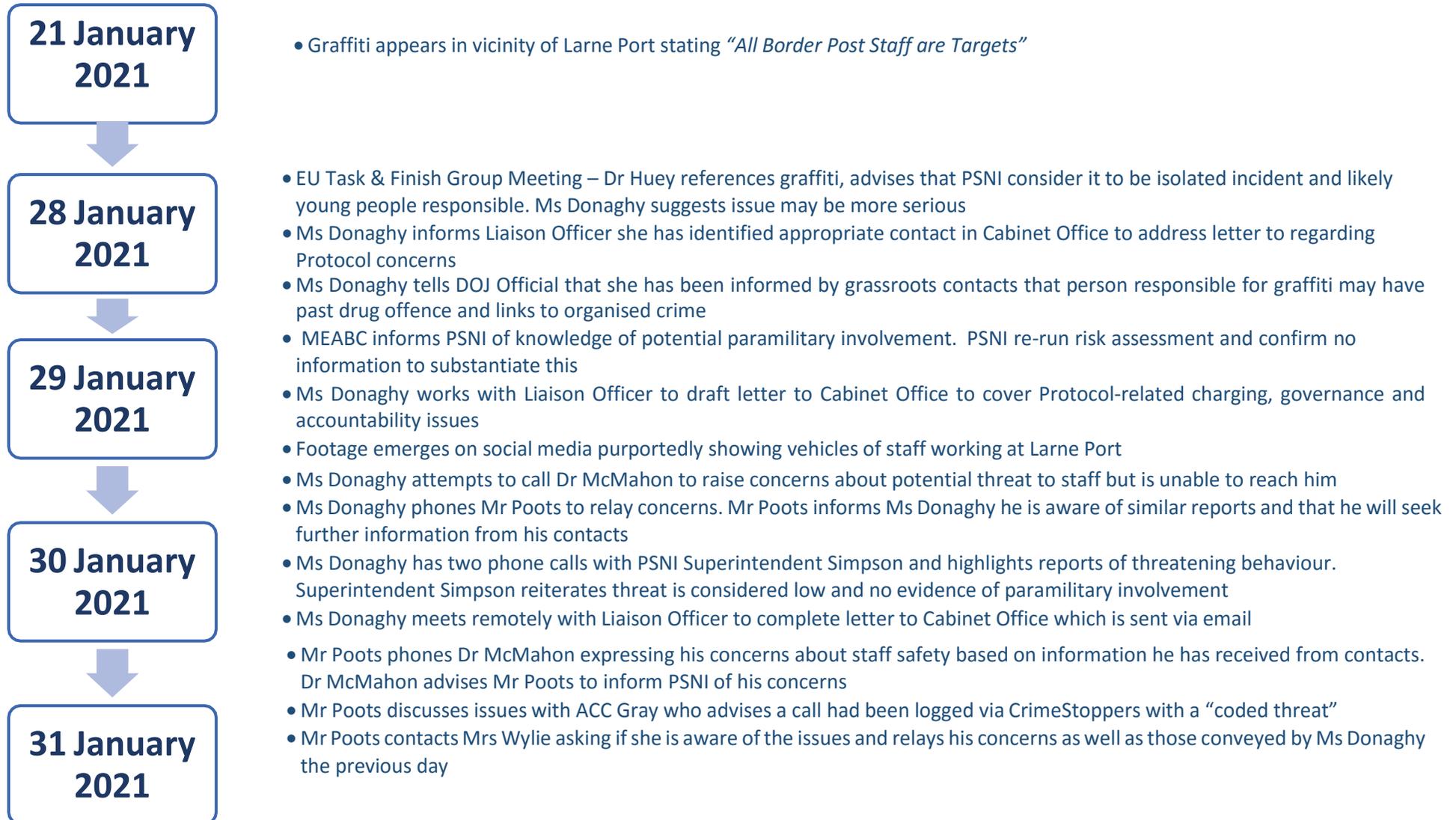
Tuesday 9 February 2021

- Written threat assessment discussed at Group Partners meeting facilitated by PSNI
- At DAERA's request, PSNI provide update to Dr McMahon stating there has been no change to the written threat assessment issued on 4 February

Wednesday 10 February 2021

- DAERA return staff to undertaking SPS checks at Belfast and Larne ports on a phased basis

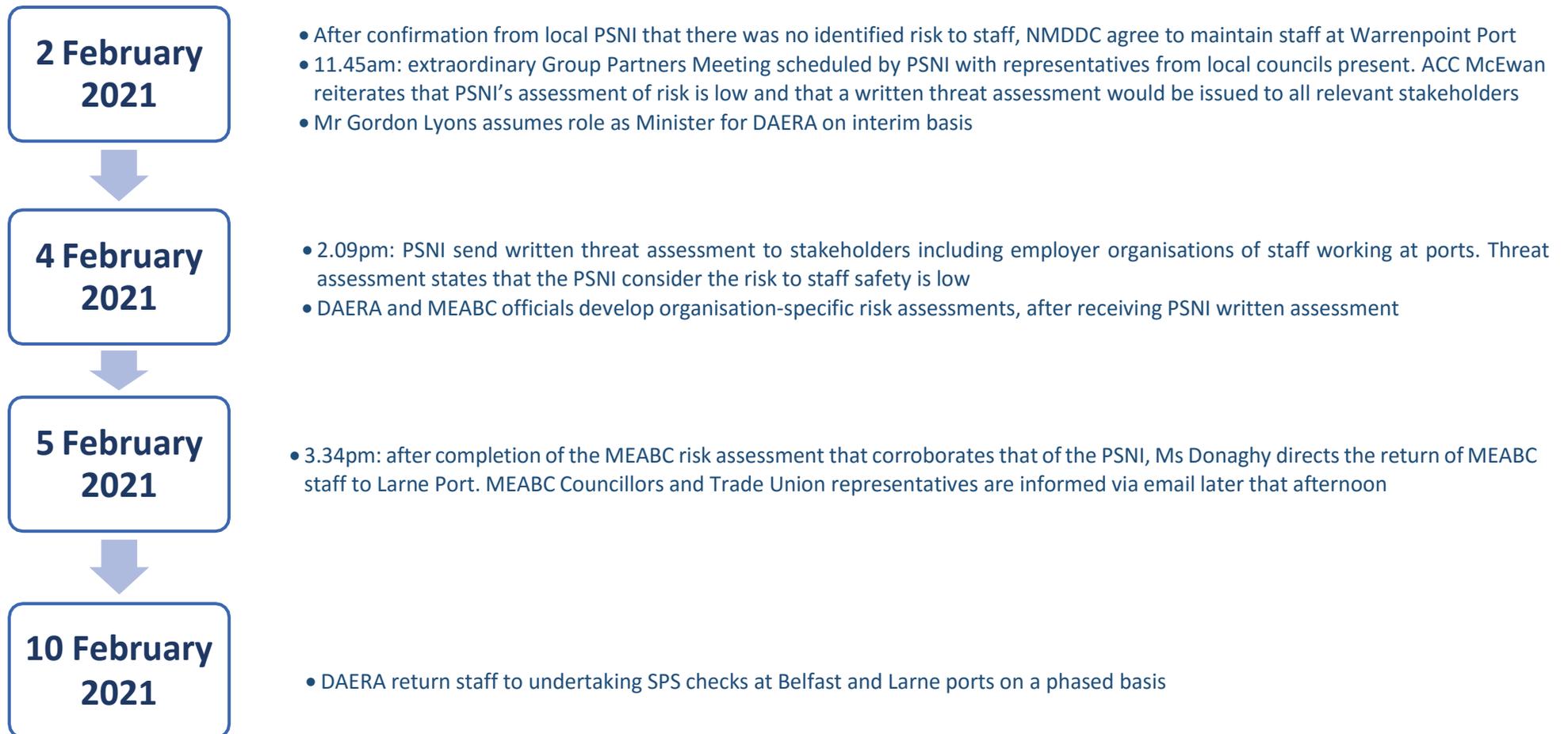
Summarised Timeline





**1 February
2021**

- Ms Donaghy receives reports from contacts about increasing tensions/more graffiti in Larne over weekend
- Mrs Wylie phones Ms Donaghy to discuss situation. Ms Donaghy advises she will seek meeting with DAERA – request sent via email
- Ms Donaghy emails Mr Poots thanking him for taking her call at the weekend and advising she sent a letter to the Cabinet Office on Saturday outlining her concerns about the Protocol
- Ms Donaghy has calls with PSNI Superintendent Simpson who deploys additional patrols to Larne Port given the concerns reported by MEABC about activity over the weekend
- Mr Poots phones Dr McMahon to register formally his concerns about staff safety and suggests to contact the PSNI. Dr McMahon contacts PSNI ACC McEwan who advises the PSNI’s assessment has not changed, i.e., risk to staff is low and that a Group Partners Meeting was being scheduled
- Trade Union emails MEABC HR Director seeking assurance about risk mitigations given threats to staff via *“graffiti and potentially other means”*
- MEABC Group Party Leaders are briefed by Ms Donaghy/Mayor about activity over the weekend, concerns raised by Trade Unions, deployment of additional resource by PSNI and that PSNI have Gold Command structure in place. Attendees agree to support decision to withdraw staff pending receipt of written threat assessment from PSNI (subject to ratification at Full Council meeting)
- 4.45pm ad hoc meeting held at MEABC request with Ms Donaghy, Mrs Wylie, Mr Poots, Dr McMahon in attendance:
 - Activity in vicinity of Larne Port discussed, as well as increasing reports of threatening behaviour that purportedly occurred over the weekend
 - Differing security infrastructure at Larne and Belfast Ports highlighted
 - Mr Poots advises he has been made aware, through contacts, of paramilitary involvement and is satisfied concerns are genuine
 - PSNI’s assessment that risk is low questioned by Mr Poots and query raised as to the PSNI’s understanding of the risks
 - Ms Donaghy informs attendees that MEABC Group Party Leaders had endorsed decision to withdraw staff, subject to Council ratification
- 5.30pm: Mrs Wylie speaks with PSNI Belfast Commander who advises there is no information to suggest any change and that Mrs Wylie would be informed immediately if PSNI believed there was any direct threat to staff at Belfast Port
- 6.30pm: Ms Donaghy and MEABC Mayor brief Councillors on situation and decision is made to withdraw staff
- Ms Donaghy directs 12 Environmental Health Officers to be removed from Larne Port, pending receipt of PSNI written threat assessment
- Mr Poots phones Dr McMahon requesting that DAERA staff be withdrawn from both Belfast and Larne Ports
- Dr McMahon and Dr Huey discuss situation and decide to suspend DAERA staff from undertaking physical SPS checks at the ports
- 10.26pm: Mr Poots sends a message via social media confirming the decision to withdraw DAERA staff



Committee's Consideration of Evidence

1. The paragraphs below outline the AERA Committee's assessment of the actions that led to the decision to stand staff down from completing their duties at POE on 1 February 2021, and other key findings relating to the investigation.

Rationale for Withdrawal of Staff

2. MEABC and DAERA officials cited multiple contributory factors and sources of information that influenced the decision taken on 1 February 2021 to withdraw staff from undertaking SPS checks at Larne and Belfast, including:

Potential Safety Risk

3. It is clear that the overriding concern of DAERA and MEABC senior officers was that there was a potential risk posed to the health, well-being and personal safety of staff working at ports and this was central to the rationale for withdrawing staff from their duties.
4. On 21 January 2021, graffiti was identified near Larne Port explicitly stating, "*All Border Post staff are targets.*" This was of concern to officials across organisations as a specific threat towards staff employed to carry out SPS checks on goods imported from GB that had recently been introduced as a result of the implementation of the Protocol.
5. Against a backdrop of numerous reports of other forms of threatening behaviour and escalating tensions in PUL communities about the Protocol in the days subsequent to the initial graffiti attack (please see below), officials' concerns about the risk to staff safety only intensified, compounding the decision to withdraw staff as a precautionary measure.
6. When appearing before the Committee, Mr Poots advised that his "*request to suspend physical checks...was not taken lightly*" and was based on "*ensuring the health and safety of my officials.*"



Increased Reports of Concerning Activity 29 January- 1 February 2021

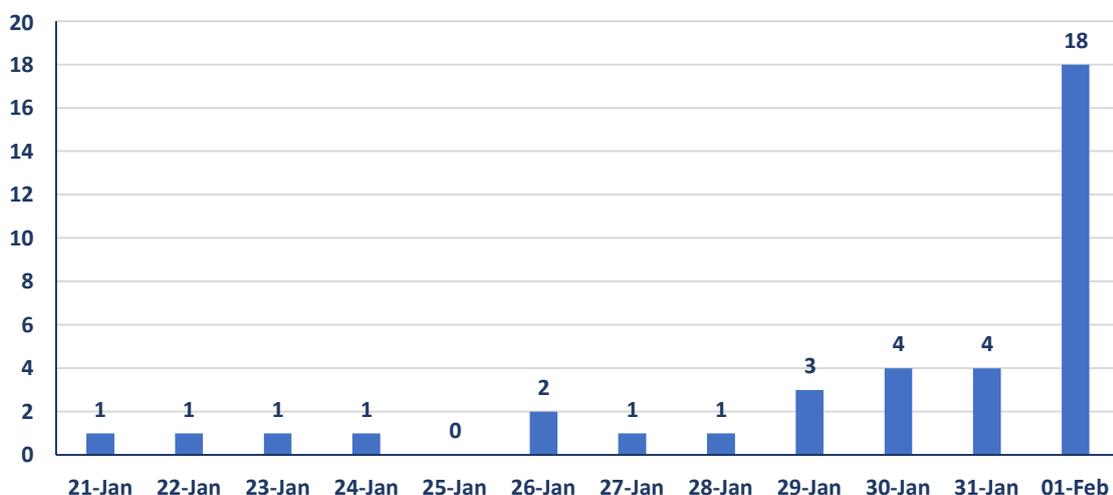
7. In the 72 hours prior to the decision to withdraw staff from undertaking checks there was a series of events reported to officials at both MEABC and DAERA that evidently increased the level of concern regarding the potential risk to staff including:
- Footage posted on a social media site that purportedly showed the private vehicles of staff who worked at Larne Port. This subsequently led to a concern that registration plates were being recorded
 - Observation of cars either slowing down or remaining stationary in the vicinity of Larne Port
 - Stories in the media that an individual member of staff working at Belfast Port had been followed home after work and had sinister graffiti sprayed near her house
 - Report from a local journalist about receiving an anonymous phone call from an individual making veiled threats to staff working at ports

- Information passed on from grassroots contacts to senior individuals about escalating tension and unrest in PUL communities about the Protocol
- Calls logged via CrimeStoppers on 30 and 31 January that officials were made aware of that increased concern and anxiety
- New graffiti sprayed in and around Larne and Belfast with anti-protocol messaging

8. This was in the context of several stories in local media outlets between 26 and 31 January highlighting increasing frustration in some communities regarding the implications of the Protocol and the perceived introduction of a “border in the Irish Sea.” This sentiment was echoed by ACC Mark McEwan when he appeared before the NI Affairs Committee on 27 January 2021: *"We are starting to see graffiti, we are picking up social media sentiment of a growing discontent, particularly within the Protestant/loyalist/unionist community. That has not manifested itself in any out workings at this point."*

9. The graph below shows the number of articles appearing in the Belfast Newsletter, the Belfast Telegraph and Irish News referencing issues in relation to the Protocol and POE between 21 January and 1 February 2021, as an indication of the increasing reported tensions during this period:

Graph Showing Published Articles About POE and the Protocol



10. The increase in activity between Friday 29 and Sunday 31 January that could reasonably be perceived as threatening was an important contributory factor in the decision to withdraw staff on 1 February 2021. In evidence submitted to the Committee, it is clear that Ms Donaghy and Mr Poots in particular became increasingly concerned over the weekend based on the information that they received.
11. The rise in reported activity was discussed at the MEABC Group Party Leaders meeting called on the afternoon of Monday 1 February 2021 and at the ad hoc virtual meeting held at 4.45pm with representatives from DAERA, MEABC and the DAERA Minister, just hours before the decision was made to withdraw staff.
12. However, whilst there was an increase in the number of reports about potentially threatening behaviour during this period, senior PSNI officers consistently maintained their assessment of the potential risk. There was daily contact between senior officials at MEABC and/or DAERA and the PSNI at least once between Friday 29 January and Monday 1 February 2021 where the alleged reported threats were communicated. On each occasion, the PSNI provided assurance that their assessment was that the risk to the personal safety of staff working at ports remained low, and that they had no evidence to substantiate or corroborate the incidents reported over this timeframe.

Potential Paramilitary Involvement

13. An important consideration in the decision to withdraw staff was the view held by some senior officials that paramilitary groups and/or individuals with links to paramilitaries were involved in the manifestation of anti-protocol graffiti and other activities reported in the days prior to 1 February.
14. However, the PSNI consistently advised officials that they assessed the reports of paramilitary involvement to be unsubstantiated and uncorroborated.
15. Ms Donaghy and Mr Poots told the Committee that they believed that there was paramilitary involvement and they communicated this at different times in the lead up to the decision to withdraw staff. Ms Donaghy stated that "*I am aware of paramilitary involvement*" in a letter she sent to the Cabinet Office on 30 January 2021 and Mr Poots informed attendees at the ad hoc meeting held at 4.45pm on 1 February that he had

received feedback that there was at least some element of paramilitary involvement in the activities over the preceding weekend.

16. It is unclear where exactly this knowledge originated from and to what extent Ms Donaghy and Mr Poots believed paramilitaries to be involved in orchestrating, or carrying out, these actions.
17. The view of Ms Donaghy and Mr Poots appears to have been predominantly based on verbal feedback provided to them by contacts at grassroots level in local communities, and while this legitimately may have increased the concern(s) for staff welfare, it is unclear if these reports were provided by credible sources and what, if any, action was taken to interrogate the veracity of this information.
18. The Committee made enquiries about the identity of the contact(s) who provided Ms Donaghy with information that the person(s) responsible for the threatening activity may have had links to paramilitaries and these details were not provided. Ms Donaghy advised that her sources “*were assured of complete confidentiality and discretion*” in order to respect her long standing relationship with the individuals and to mitigate any concerns they had for their own personal safety.
19. Mr Poots told the Committee that he liaised with “*councillors and MPs*” in the days prior to 1 February 2021 who provided him with information about the situation in their respective localities.
20. It is likely that the communication of paramilitary involvement from senior individuals would have compounded any underlying concern held by other officials regarding the potential threat to the safety of staff working at ports, and may have influenced the decision to withdraw them from undertaking SPS checks.
21. However, senior PSNI officers robustly and consistently rejected any suggestion of paramilitary involvement in the activities leading up to the 1 February 2021 and this was communicated to stakeholders repeatedly at the time:
 - 28 January 2021 – PSNI investigate report from a journalist at the Sunday

World who received a phone call from an anonymous individual threatening port staff. The PSNI conclude there is no information to suggest this emanated from anyone with links to paramilitaries

- 29 January 2021 – the PSNI receive reports from MEABC senior official that paramilitaries may have been linked to the manifestation of the graffiti in Larne. Upon receipt of this information, the PSNI repeated its threat and intelligence assessment and confirmed to MEABC that there was no evidence to indicate this
- 30 January 2021 – Ms Donaghy speaks twice to PSNI Superintendent Simpson, highlighting her concerns about the recent events and potential threat to staff. Superintendent Simpson informed Ms Donaghy that the PSNI's assessment of the situation remained unchanged
- 1 February 2021 – Dr McMahon, Permanent Secretary of DAERA, contacts PSNI ACC Mark McEwan who informs Dr McMahon that the PSNI is not aware of any information that would lead a to change in its assessment that the risk to staff working at ports was low
- 1 February 2021 – Mrs Suzanne Wylie, CEO of BCC, is informed by the PSNI Belfast Chief Commander that the PSNI's assessment is that the potential risk is low and there is no information to suggest any particular group is responsible for the graffiti attacks
- 2 February 2021 – At the extraordinary Partners Group meeting called by the PSNI, ACC McEwan briefs all attendees that there is no evidence to corroborate claims of paramilitary involvement

22. The Committee was not presented with any information, other than that provided by Mr Poots and Ms Donaghy, to substantiate paramilitary involvement in the activities leading up to 1 February 2021. Further, there is no evidence to indicate that any notes were made by Ms Donaghy or Mr Poots following the discussions that they had with

their contacts. The lack of any contemporaneous documented record of these conversations presents a challenge in interrogating the substance of these claims and appraising the reliability of the information on which this belief was founded.

23. The PSNI has consistently stated that the reports of paramilitary involvement were uncorroborated and confirmed to the Committee that at no point during the period between 21 January to 1 February 2021, or since, have they received any evidence to suggest otherwise.

Contradiction of Senior PSNI Officers' Assessment of Risk

24. Senior PSNI officers provided frequent verbal updates to officials about their assessment of the potential risk to the health and safety of port workers during the period 21 January to 1 February 2021 and they were **consistent in their communication that they considered the risk to be low.**

25. However, it is evident that some decision-makers held a different view and cast aspersions on the handling of information by senior PSNI officers and their assessment of the potential risk, particularly over the course of the weekend 30 to 31 January 2021.

26. When giving evidence to the Committee, Ms Donaghy stated "*the police were often guarded*" and went on to describe that her conversations with Superintendent Simpson on 30 January 2021 did not, in her opinion, provide satisfactory assurance about the potential threat(s).

27. Further, Mr Poots, when attending before the Committee, expressed strong concerns about senior PSNI officers' understanding of the potential threats and explained that he was "*absolutely horrified*" that the PSNI had withheld information from local council officials, particularly about the details of a call that had been logged via CrimeStoppers that contained a "coded threat."

28. In a written briefing provided by MEABC it is documented that at the meeting facilitated at 4.45pm on 1 February 2021, Mr Poots relayed similar concerns and queried whether the PSNI had a full understanding of the risks posed by the recent activity.

29. The Committee is not aware of any formal complaint and/or request for a review as to how the PSNI managed its assessment process in the days prior to 1 February 2021.
30. The criticism of the PSNI's assessment may have played a role in the decision to withdraw staff and it is evident that some senior officials gave greater credence to reports received from their network of contacts about the potential threats, than to assurances provided by senior PSNI officers.
31. Mr Poots informed the Committee that it had been reported to him that some PSNI officers were advising port staff that there was a threat and to be wary and indicated that there was a disconnect between the seriousness of the situation and the assessment of senior PSNI officers. *"Police officers on the ground were telling our staff that there were problems and credible threats....I picked up from others that police officers on the ground were talking about credible threats."*
32. When asked about issues being communicated at an operational level, the PSNI confirmed that, to the best of their knowledge, they were not aware of any concerns having been raised by officers operating on the ground about potential threats to POE staff.
33. Additionally, the PSNI confirmed that ACC Gray reiterated the PSNI's assessment that the reported threats were considered to be unsubstantiated and uncorroborated during the phone call she had with Mr Poots on 1 January 2021.
34. Further, it is unclear why an invitation was not extended to PSNI officers to attend the ad hoc meeting that was scheduled for 4.45pm on 1 February 2021. This meeting was requested by Ms Donaghy to discuss the situation at the ports given the *"security and political issues"* and was attended by representatives from DAERA, MEABC and BCC. Given the criticism expressed by some officials at this meeting about the management of the situation by the PSNI, it would have seemed prudent to have sought their attendance, particularly as this would have provided a viable opportunity for the PSNI to update all key stakeholders on their holistic assessment of the risk at both Larne

and Belfast, as communication hitherto had predominantly been on a one-to-one basis with senior PSNI officers and officials in specific organisations.

35. The Committee was not provided with any evidence to suggest that the PSNI were engaged with about the meeting on 1 February 2021, either through invitation or via providing attendees with an assessment of the risk in advance. This seems to have been a significant oversight on the part of officials in organising this meeting, with a key stakeholder unrepresented at a forum that was ostensibly facilitated to discuss security risks.

36. The Committee acknowledges that while the PSNI consistently maintained their assessment that the risk to staff working at POE was low, officials could not be certain that there was **no threat**, and it is clear that some decision-makers considered there to be a sufficient level of concern to take action, based on the information that they had received from other sources.

Lack of PSNI Written Threat Assessment

37. The PSNI verbally communicated its assessment of the potential threat in the days prior to 1 February 2021 at various meetings of representative groups and in one-to-one telephone conversations with officials at different organisations.

38. However, a formal, written threat assessment was not provided to stakeholders. Both MEABC and DAERA cited this as an important contributory factor in the decision to withdraw staff from undertaking SPS duties on 1 February 2021 as they felt that the verbal updates that they had received did not provide sufficient assurance about the potential risks.

39. At the extraordinary Group Partners meeting called on 2 February 2021, the PSNI undertook to provide a written assessment to relevant stakeholders, including local councils and DAERA. This assessment was issued in the early afternoon of 4 February 2021, after senior officials at both DAERA and MEABC had contacted the PSNI seeking to escalate the dissemination of the document.

40. The Committee understands that the approximate 48-hour timeframe in issuing the written assessment was due to the fact that the PSNI had to liaise with the intelligence service to verify the information and contents of the document. This delay was unfortunate as it undoubtedly caused some anxiety and unease amongst senior officials at relevant organisations, and potentially lengthened the period during which staff were withheld from undertaking SPS duties.

41. However, despite the rationale provided by MEABC and DAERA that the lack of a written threat assessment influenced the decision to withdraw staff, given the consistent verbal messaging from senior PSNI officers, and the concerns expressed about the PSNI's understanding of the level of threat, it is unclear if a different course of action would have been taken had stakeholders been in possession of a written threat assessment on 1 February 2021, and it is possible that a decision to withdraw staff would likely have been made regardless.

Contextual Information Provided to MEABC Councillors

42. Ms Donaghy and the MEABC Mayor repeatedly emphasised the importance of having the full support of all MEABC elected representatives in making the decision to withdraw staff.

43. On 1 February 2021 the potential risks to staff working at Larne Port were discussed at:

- A Group Party Leaders meeting scheduled in the afternoon; and at
- A Full Council Meeting that evening

44. At both meetings, attendees were briefed on the issues of concern, particularly the reports of increasing threatening behaviour over the previous 72 hours including the manifestation of graffiti, potential recording of staff vehicle registrations and sightings of slow moving/stationary cars at Larne Port.

45. However, councillors were also provided with other aspects of contextual information including that:

- The PSNI was deploying additional resources to Larne Port, given the issues
- The PSNI had a Gold Command Meeting structure in place *“to deal with risks and threats at the Ports”* and this *“further reinforced the seriousness of the situation”*
- Trade Union representatives had raised serious concerns that day via email about suspicious activity including recording of staff vehicle registrations at Larne Port

46. It has been subsequently determined that this information was either erroneous and/or misconstrued to some extent.

47. For example, the provision of additional PSNI resources to Larne Port was instigated earlier on 1 February 2021 by Superintendent Simpson as a mitigation measure in order to reduce unnecessary anxiety and to provide reassurance for staff and the local community in response to the concerns raised by Ms Donaghy about escalating tensions over the weekend. This was **not precipitated** by any new evidence or change in the PSNI’s assessment of the risk.

48. Further, the Committee heard that the PSNI’s Gold Command Meeting Structure was in place to respond to any emergent issue(s) arising throughout the Brexit transition period and it had been running for a number of weeks prior to 21 January. It was **not** established as a consequence of the graffiti attacks and reports of other intimidatory behaviour.

49. Additionally, the PSNI clarified that the Gold Command Structure is an internal framework for communication and action and no other stakeholder organisations routinely participate. The PSNI facilitated a separate “Partners Group” that met on a weekly basis commencing 27 October 2020 with representatives from DAERA, Harbour Police and Border Force. Prior to the 2 February 2021 local councils did not attend this meeting as it was predominantly established as a forum for law enforcement staff.

50. Ms Donaghy repeatedly raised concerns in both oral and written evidence to the Committee about the fact that MEABC had not been invited to participate in the PSNI's Gold Command meetings. This demonstrates a lack of understanding as to the role and purpose of this management framework and highlights a potential concern about the suggested implications of its existence that was communicated to MEABC councillors on 1 February 2021.
51. At 1.45pm on 1 February 2021 a Trade Union representative emailed the MEABC Head of Human Resources advising that he had been informed that staff working at Larne Port had been "*threatened by graffiti and potentially other methods*" and sought assurances as to the risk mitigations being put in place by MEABC. The Committee was informed that Trade Union representatives were never contacted by staff regarding the recording of vehicle registration plates and understand that while the MEABC Mayor has apologised for this miscommunication to MEABC councillors on 1 February 2021, there has been no formal retraction or amendment of the record.
52. While there is no evidence to suggest that this information was misconstrued deliberately, or that the councillors' unanimous agreement to support the withdrawal of MEABC staff on 1 February was influenced unduly by this information, it nevertheless highlights that there were inaccuracies in the contextual briefings provided to councillors when they were asked to endorse this decision.
53. Relatedly, the Committee is unclear why officials from MEABC placed such substantial emphasis on having the support of elected representatives with regards the decision to withdraw staff from Larne Port. It was repeatedly stated in both oral answers and written submissions that there was "*unanimous, cross-party support*" for this decision both from Group Party Leaders and at the Full Council Meeting on 1 February 2021.
54. The Committee is unsure why this is of significance. As referenced in written reports provided by MEABC, Ms Donaghy is the Accounting Officer of the organisation with ultimate responsibility for staffing decisions and the health and safety of employees. It would therefore fall within her ostensible authority to take any reasonable action as she would have considered necessary to protect staff safety, without having to seek

endorsement from elected officials who have no direct responsibility for staffing matters.

55. It would be understandable to seek the views of councillors on such a matter and the Committee recognises the merits of having the backing of elected representatives and that it is normal practice for local government officials to consult councillors on politically contentious and/or important decisions. However, in the evidence provided by MEABC it is repeatedly stated that **the decision** to withdraw staff **was actually made by councillors** which could give rise to a perception of seeking to enhance the credibility of the action:

“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.”

“Indeed, at the Council Meeting on 1 February, where the decision was made by the Elected Representatives to temporarily withdraw Council Port staff”

“The decision to invoke this temporary withdrawal was taken unanimously by Council, with cross-party support, due to very serious concerns for the Officers’ safety.”

“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. When the decision was made by Elected Members, Council’s Director responsible immediately contacted a senior member of staff in her team at 7.24pm to inform them of Council’s decision.”

“The decision to withdraw staff was made by the Elected Members of Mid and East Antrim Borough Council with unanimous, cross-party support”

“It was therefore incumbent on the Chief Executive to implement the decision of Council”

“All the information that I passed on to the PSNI and all the information that I brought to the group party leaders and to the council meeting — I did the right thing. It was, after all, the elected members who made the decision.” [Ms Donaghy]

Influence of Senior Political Opinion

56. It is evident that Mr Poots became increasingly concerned about the potential risk to staff welfare over the course of the weekend of 30-31 January 2021 based on the information he received from various sources including the phone call with Ms Donaghy on Saturday 30 January, reports from political contacts and information provided by ACC Gray on Sunday 31 that a call had been logged with CrimeStoppers containing a “coded threat” to port workers.

57. Mr Poots communicated his concerns to senior officials as follows:

- Mr Poots contacted Dr McMahon on Sunday 31 January advising him of the reports that he had received of the potential threats to staff safety
- At 9.30pm that evening Mr Poots called Mrs Suzanne Wylie to ascertain her understanding of the situation at Belfast Port and to relay the concerns that had been raised to him
- At around midday on 1 February 2021 Mr Poots phoned Dr McMahon to register formally his concerns about the health and safety of DAERA staff working at POE. Mr Poots also advised Dr McMahon to contact the PSNI to ensure that they had a full understanding of the situation

- During the ad hoc meeting held at 4.45pm on this date Mr Poots again expressed his concern about the risks to staff and reminded Mrs Wylie, Ms Donaghy and Dr McMahon of their respective duties of care to protect staff safety
- Later that evening Mr Poots phoned Dr McMahon and requested that DAERA staff be stood down from Belfast and Larne ports, given the risks

58. The communication from an Executive Minister about his increasing concerns for the welfare of staff is likely to have been a contributory factor in the decision made by Dr McMahon and Dr Robert Huey to withdraw DAERA staff from undertaking physical SPS checks at Belfast and Larne Ports.

59. When providing evidence to the Committee Dr McMahon and Dr Huey recollected that Mr Poots expressed genuine concern for the welfare of staff and “*pushed the position hard*” in terms of the potential threats. It was acknowledged that the opinion of senior politicians can often be a pertinent factor when taking decisions, but stressed that the decision to withdraw staff from undertaking SPS checks was not politically motivated.

Concerns Raised by Port Staff

60. An important reason cited by DAERA for their decision to withdraw staff was that some individuals working at both Belfast and Larne ports had expressed serious concerns about the potential threats.

61. The exact detail on the number and timing of contacts made by individual DAERA staff to their Line Manager(s) about the potential threats was not disclosed to the Committee, but it was provided with email exchanges between senior officers at DAERA that outlined the concerns in general terms, including:

- Staff raising concern about using their own vehicles to travel to particular locations. The Committee notes that DAERA issued a memo to its POE staff on the morning of 1 February 2021 advising that they should not commute in their own vehicle if they felt uncomfortable doing so

- *“Some staff in Belfast”* reported that PSNI officers with whom they had connections had informed them that there were *“credible threats from loyalists and that staff need to be wary”*
- Concerns about the display of signage on motorway flyovers that contained anti-protocol messaging

62. It is acknowledged that some staff will have likely felt very anxious and nervous about undertaking any Protocol-related work in the days leading up to 1 February given the manifestation of graffiti containing threatening messages, reports in the media of escalating community tensions and other worry-inducing behaviour.

Security Set Up at Larne Port

63. A contributory factor to MEABC’s decision to withdraw staff from Larne Port was the sub-optimal security infrastructure in situ which was reported by Ms Donaghy at the ad hoc meeting held at 4.45pm on 1 February 2021 to be an issue of concern, particularly given the increasing reports of threatening behaviour in the vicinity in the preceding 72 hours. This was also relayed in evidence submitted to the Committee.

64. The Committee understands that Larne Port has only one access/egress point, that council staff working there were not based in a secure building, that staff did not have access to a secure car parking facility and there are limited controls on access to the site.

65. The infrastructural set up at Larne Port is likely to have increased the underlying anxieties of MEABC officials about the potential risk(s) to staff safety.



Letter to the Cabinet Office 30 January 2021

66. During the course of its investigation, the Committee identified that Ms Donaghy sent a letter to Mr Brendan Threlfall, a senior official at the UK Cabinet Office, on Saturday 30 January 2021 in which a range of concerns regarding the challenges posed by the implementation of the Protocol were outlined.

67. Whilst the majority of the contents of this correspondence are unrelated to the Committee's investigation, there are aspects of the letter that are of particular relevance and, as a result, the Committee focussed a significant degree of attention and scrutiny to this letter in its investigation.

68. The most pertinent section of the letter is transcribed as follows:

"1. Security

I am aware of the involvement of paramilitary groups and recent protests at Larne Port and have escalated this to senior PSNI and Executive Officials. Sinister graffiti has appeared at Larne Port which has raised a threat to staff working on the Border Control Posts. As Chief Executive my first priority must be staff's health and safety and I remain extremely concerned to their safety as I have been informed, for example, that cars entering and exiting the Port are being monitored and registrations collected. I

have made the PSNI aware of the ongoing issues but I now feel compelled to take measures to protect the health, safety and well-being of my staff.

In doing so this may have implications for the supply chain at this very busy port.”

Context to the Letter

69. The Committee was informed by Ms Donaghy that she composed the letter in a dual role as CEO of MEABC **and** as Chairperson of a working group commissioned by SOLACE NI, which is a representative network of senior officials at local councils.

70. The EU Exit Task and Finish Working Group was re-established on 4 December 2020 to deal with matters pertaining to the impending cessation of the transition period, having initially been operational between August 2019 and February 2020 to consider implications for local government arising out of the Brexit negotiations.

71. Ms Donaghy volunteered to act as Chairperson of the Task and Finish Group which met on a number of occasions in January to identify, document and report on specific issues impacting on local government as a result of the UK’s exit from the EU and the ramifications of the TCA.

Inclusion of Security Concerns

72. Ms Donaghy presented evidence to the Committee in which it was explained that her motivation to send the letter was ostensibly “*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 [in relation to the Protocol].*”

73. Two days prior to the letter being issued on 28 January 2021, Ms Donaghy had tabled a detailed report at a meeting of the Task and Finish Group that set out a range of operational challenges presented by the Protocol including issues such as:

- Disruption to Trade
- Impact on local businesses and haulage firms

- Concerns from the retail sector
- Reinstatement of VAT Margin Scheme on used car sales
- Steel Tax; and
- Groupage of imports

74. This paper was provided to attendees at the meeting on 28 January 2021, who were verbally updated on the salient issues.

75. Based on the evidence received, the Committee understands that Ms Donaghy felt sufficiently concerned about these issues to correspond with the Cabinet Office about Protocol-related matters, particularly given challenges that were verbalised by attendees at the meeting on 28 January 2021.

76. Ms Donaghy, along with a Liaison Officer, subsequently commenced work on a draft letter to the Cabinet Office on 29 January 2021 to cover issues including “*Charging, Governance and Accountability and performance*”

77. On Saturday 30 January 2021 Ms Donaghy held a virtual meeting with the Liaison Officer to finalise the letter that was sent later that day.

78. The Committee is unclear why the issue of a security risk to staff was included in the correspondence and what prompted this to be highlighted as the primary matter of concern given the fact that:

- Potential risk(s) to staff had not been documented in the paper provided to members of the Task and Finish Group prepared by Ms Donaghy
- This was not discussed as a tabled item of concern at the meeting on 28 January 2021
- The intended scope of the letter on 29 January 2021 had been to cover issues such as charging, governance, accountability and performance

79. Further, in written evidence submitted by MEABC to the Committee on 4 May 2021 it is stated that MEABC officials consider that *“The ongoing implementation of the protocol is a separate and different issue to the safety of staff.”*

80. This contradicts the contents of the correspondence sent to the Cabinet Office on 30 January 2021 which is entitled *“Concerns on the Implementation of the NI Protocol”* and conflates this directly with potential risks to staff security as the first point of concern noted.

81. The Committee acknowledges the discretion and authority of senior officials to communicate any issues with whomever they consider necessary in the discharge of their duties. However, the mixed-messages about the intended purpose of the correspondence sent to the Cabinet Office raise uncertainties about the scope of the letter and specifically what precipitated the inclusion of staff security matters, which had not been documented in the report on Protocol-related challenges prepared Ms Donaghy several days prior, discussed at the Task and Finish Group on 28 January or seemingly included in the draft prepared the day before the letter was sent.

Statement Regarding Paramilitary Involvement

82. The opening line of the first sub-section of the letter is *“I am aware of the involvement of paramilitary groups and recent protests at Larne Port and have escalated this to senior PSNI and Executive Officials.”*

83. This is a reasonably definitive assertion of paramilitary engagement in the activities in the vicinity of Larne Port and is not accompanied by any qualification e.g., that paramilitaries “may be” or “potentially could” be involved.

84. In providing evidence to the Committee Ms Donaghy explained that she had received reports from local sources whom she trusted that paramilitaries were involved in the actions around Larne Port. As highlighted above the Committee has been unable to determine the credibility of the sources at grassroots level that provided Ms Donaghy with this information, and the PSNI consistently rejected this notion.

85. Nevertheless, the fact that this was communicated emphatically in the letter indicates that Ms Donaghy strongly believed this to be the case on Saturday 30 January 2021, despite having been provided with reassurances to the contrary from a senior PSNI officer.

86. The statement regarding paramilitary involvement in the letter to the Cabinet Office, as it is written, raises several issues:

- Whilst Ms Donaghy explains in the same sentence that she has passed on her concerns to the PSNI, there is no narrative provided about the PSNI's verbally reported assurances that, in their assessment, there was no evidence to corroborate paramilitary involvement
- If Ms Donaghy was in possession of information that led her to believe on Saturday 30 January 2021 that paramilitaries were definitely behind the activities in the vicinity of Larne Port, why was a decision not taken to withdraw staff from undertaking duties at the port immediately, given the potential risks?
- At the MEABC Full Council Meeting on the evening of 1 February 2021, Ms Donaghy was questioned directly about the involvement of paramilitaries in the recent activity and Ms Donaghy advised that she was **unsure of the source** of the threat.

This is a significant disparity in emphasis between the statement in the Cabinet Office letter, "*I am aware of the involvement of paramilitary groups*", and verbal information provided to MEABC councillors approximately 48 hours later and raises uncertainties about Ms Donaghy's conviction regarding paramilitary involvement.

- In the minutes of the Full Council Meeting on 1 February 2021 it is documented that "[Ms Donaghy] *reiterated that the reason why a formal PSNI threat assessment was being requested was because that she did not know* [the

source of the threat] *and had no way of finding out other than through the PSNI.*”

This undermines the statement in the letter about paramilitary involvement. Ms Donaghy wrote this based on feedback provided to her from grassroots political sources, in the absence of a written threat assessment from the PSNI and contrary to verbal assurances about the risk that had been provided to her by senior PSNI officers.

Potential Pre-determined Action Regarding Staff

87. The closing sentences pertaining to staff security issues at Larne Port contained in the correspondence to the Cabinet Office read as follows:

“I have made the PSNI aware of the ongoing issues but I now feel compelled to take measures to protect the health, safety and well-being of my staff.

In doing so this may have implications for the supply chain at this very busy port.”

88. This could reasonably be interpreted as an indication of intent to either withdraw staff or to reduce capacity at the port in some fashion, given the reference to *“implications for supply chains.”*

89. The Committee is unclear why Ms Donaghy considered it necessary to intimate in the letter that a decision may be forthcoming about staff operations at Larne Port and indeed why there was a delay in taking such a decision until 1 February given that Ms Donaghy felt *“compelled to take measures to protect the health, safety and well-being of my staff.”*

90. Further, this section of the letter could be perceived to undermine, to some extent, the repeated assertions of MEABC officials of the importance of having elected officials endorse the decision to withdraw staff, as it could be seen as a statement of intent to reduce staff activity at the port two days prior to engaging with councillors on this matter.

Submission of Correspondence to the Committee

91. The Cabinet Office letter was not included in the initial submission of written evidence sent by MEABC in response to the Committee's request for any documentation that was relevant to its investigation.
92. The Committee became aware of the existence of the letter only after it was referenced by a DAERA official when giving oral evidence on 15 April 2021 and the Committee subsequently secured a copy.
93. When questioned why the letter was not provided to the Committee, Ms Donaghy advised that it had not been submitted because it was not related to the decision to withdraw MEABC staff from Larne Port and because it was written in confidence. It was subsequently explained that MEABC councillors had also not been made aware of the letter on 1 February 2021 as Ms Donaghy did not feel it was pertinent to the discussions about staff security at the port.
94. Given that the letter specifically references risks to the health and safety of staff working at Larne Port due to security concerns, the Committee disagrees that it was not relevant to its Terms of Reference and considers that it was a misjudgement not to have disclosed the correspondence to the Committee when it requested evidence from MEABC.

Contact with Political Representatives

95. The correspondence outlines that Ms Donaghy had contacted local MPs Sammy Wilson, Ian Paisley and Sir Jeffrey Donaldson about the Protocol-related challenges and that Ms Donaghy had been advised to put her concerns in writing to Mr Threlfall.
96. When questioned by the Committee about why MPs from only one political party had been contacted and why Sir Jeffrey Donaldson was included as a "local" MP, despite being the elected representative for the Lagan Valley constituency, Ms Donaghy provided the following explanation:

- She had contacted Mr Wilson and Mr Paisley as elected representatives for constituencies that fall within the MEABC area to discuss her concerns;
- Mr Wilson and Mr Paisley had advised Ms Donaghy to seek Sir Jeffrey Donaldson's opinion regarding the most appropriate contact within the Cabinet Office to whom the letter should be addressed, given his tenure, experience and network of contacts at the House of Commons

Points of Issue with MEABC Evidence

97. Over the course of its investigation, the Committee noted several issues with regards the evidence provided by MEABC about the correspondence to the Cabinet Office and was contacted by third parties who highlighted points of clarity on the information provided to the Committee.

98. While not directly relevant to the Terms of Reference, the Committee considered that these issues should be highlighted and the details are included at Appendix 1.

Differing Organisational Responses

99. Two organisations made a decision to withdraw staff from undertaking SPS checks on 1 February 2021 in some capacity:

- Ms Donaghy ordered the physical withdrawal of 12 Environmental Health Officers employed by MEABC from Larne Port following the Full Council Meeting
- Dr McMahon and Dr Robert Huey agreed that DAERA staff working at Belfast and Larne ports should suspend the completion of physical checks on imported goods, although these staff were not removed from the sites and continued to undertake documentary checks

100. With regards to decision-making by other councils, BCC did not take any decision to downturn staff activity and the Committee understands that this was based on the following rationale:

- The different infrastructure and set-up between Belfast and Larne ports, including:
 - There are several points of access/exit at Belfast Port, as opposed to one at Larne Port
 - Council staff working at Belfast Port had the ability to park their vehicles in a secure compound
 - Additional security infrastructure in situ at Belfast Harbour including more prevalent CCTV surveillance and controlled access barriers

There was therefore considered to be better environmental security measures in place at Belfast Port, compared to Larne.

- Graffiti that had been displayed in and around Belfast in the days prior to the 1 February 2021 was generic in nature with statements criticising certain political parties or the Protocol itself and there was no evidence of a specific threatening message towards staff working at POE (as had been seen in Larne)



- Mrs Wylie, CEO of BCC, contacted a senior PSNI officer following the ad hoc meeting held at the request of MEABC at 4.45pm on 1 February 2021 to verify the PSNI's assessment that the perceived threat level was low and nothing had changed. A risk-based approach was therefore adopted to retain BCC staff at

Belfast Port given the assurances provided by the PSNI and additional support provided by Harbour Police in terms of increased patrols

101. Similarly, NMDDC appears to have adopted a risk-based approach with regards presence of staff at Warrenpoint Port. Whilst an instruction was issued overnight to the member of council staff who was to start duty in the early hours of 2 February to work from home, this appears to have been made largely out of an abundance of caution given the decisions taken by DAERA and MEABC earlier in the evening, and following verification by local PSNI that there was no evidence to indicate a threat, the instruction was withdrawn. In the event, the individual concerned did not see the message and therefore attended work as normal.

102. In relation to DAERA's decision, Dr McMahon and Dr Huey collectively made the decision to suspend staff at Belfast and Larne Ports from undertaking physical checks which they considered to be a reasonable, measured and precautionary approach based on the following considerations:

- Lack of a formal written threat assessment from the PSNI;
- New information provided by MEABC about staff health and safety, and the decision taken by MEABC to "*remove staff from potential danger*" in advance of receipt of a written assessment;
- Staff at Belfast and Larne had expressed serious concerns about the potential threats; and
- Lack of DAERA-specific risk assessment and mitigations

103. When providing evidence to the Committee, DAERA officials explained that, in the context of the PSNI's verbal assurances that the risk to staff at POE was low, they determined that it was unnecessary to withdraw staff from port sites altogether and specifically halted the completion of physical SPS checks on goods. This was

because staff had reported feeling particularly vulnerable when carrying out this activity, as they felt exposed and highly visible when taking goods off lorries for inspection.

104. Dr Huey visited both Larne and Belfast Ports on 5 February 2021 and spoke with DAERA staff. When giving evidence before the Committee, Dr Huey explained that there was a range of opinion about the perception of the threat(s), with some staff “shrugging it off” and others expressing genuine concern, particularly about the reaction they could be subject to in their local community given the fact they were undertaking checks necessitated by the Protocol.

105. The Committee notes that there does not appear to have been any consideration made by officials at DAERA with regards the differing security measures and infrastructure between Belfast and Larne Ports, when taking the decision to suspend staff from undertaking physical checks.

Development of Organisation-Specific Risk Assessments

106. In providing evidence to the Committee, officials from both MEABC and DAERA frequently stated the importance that their respective organisations place on protecting the health, safety and well-being of their staff, which was a primary factor in the decision to withdraw individuals from undertaking SPS checks on 1 February:

“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.” – **MEABC Written Briefing submitted 4 May 2021**

“DAERA takes health and safety very seriously. Since March 2018, health and safety has been an item on the agenda of over 100 top-management team meetings... This is a regular focus for us. Our focus has been on ensuring that the capacity, policies, equipment and support is in place to protect staff and the people who use our services, and we do that in line with our legal duty under the Health and Safety at Work etc. Act 1974 to look after the well-being of our staff” – **Dr Denis McMahon in an oral briefing given to the Committee on 15 April 2021**

107. The Committee welcomes the stated commitments from MEABC and DAERA with regards protection of staff health and well-being.

108. However, despite these assertions, it appears that there was a gap in the risk management approach at both MEABC and DAERA as neither organisation had an up-to-date risk assessment in place referencing the potential threats to staff working at POE prior to the 1 February and what, if any, mitigations had been put in place.

109. Both organisations cited the need to have a formal written threat assessment from the PSNI as necessary in order to enable them to develop their own individual risk assessments, and following dissemination of the documented threat assessment on 4 February 2021, work was undertaken at DAERA and MEABC to complete these.

110. The Committee is unclear why it was felt that having access to a written threat assessment from the PSNI was required and would have expected DAERA and MEABC as responsible employers to have had pre-existing Health and Safety risk assessments in place for staff working at POE and for these to have been updated regularly prior to 1 February 2021, particularly following the emergence of graffiti with threatening messages and reports of other worrying behaviour.

111. If risk assessments had been in place, and regularly updated, in the period following the initial identification of the graffiti on 21 January 2021, it would likely have provided greater assurance as to the actions taken and discussions had with relevant stakeholders to mitigate the potential threat(s).

Return of Staff to Duties

1. Both MEABC and DAERA facilitated the return of staff to undertaking the full range of SPS checks after receiving the PSNI's written threat assessment on 4 December 2021 and subsequently completing work on their own specific risk assessments, putting in place mitigation measures as were considered necessary:
 - Ms Donaghy directed the return of MEABC staff to Larne Port at 3.34pm on Friday 5 February 2021
 - DAERA staff commenced a phased return of physical SPS checks from Wednesday 10 February 2021
2. The Committee understands that the longer timeframe taken to return DAERA staff to their duties was due to the fact that Mr Gordon Lyons MLA, who had been appointed as DAERA Minister on an interim basis on 1 February, sought additional briefings and assurance from officials on the potential risks that were provided on 4 February. Further, it appears that there was more work required to prepare and deliver site-specific risk assessments for DAERA staff operating at Larne and Belfast ports, contributing to a longer period during which physical SPS checks were suspended.

Impact of Suspension of SPS Checks

1. The temporary suspension of POE staff from undertaking the full range of SPS checks as obligated by the Protocol between 1 February and 10 February 2021 significantly increased political tensions regarding the implications of the TCA and the Protocol. There were numerous reports in media outlets, both locally and nationally, of the effect of the withdrawal of staff and the ramifications of threats being made to workers carrying out Protocol-related duties was highlighted by Michael Gove, the Chancellor of the Duchy of Lancaster, as an indication of the *“significant issues [related to the Protocol] which bear on the lives of people in Northern Ireland, which do need to be resolved.”*
2. Whilst the economic impact of the temporary suspension was minimal – consignments of goods still flowed into NI from GB during this period – the fallout from the temporary suspension undoubtedly contributed to escalating tensions in some communities about the implications of the Protocol and may have increased anxiety about risk(s) to staff safety. Indeed, the Committee notes that some DAERA staff voluntarily withdrew from undertaking physical SPS duties during the weekend 20-21 March 2021 and the Department for Communities temporarily closed offices in Larne from 9-11 April as a precautionary measure – both of these were in response to escalating community tensions and potential security concerns.
3. In the months subsequent to the return of MEABC and DAERA officials in undertaking SPS duties the issue of Protocol-related checks remains contentious, divisive and largely unresolved as the EU-UK Partnership Council continue to discuss how the Protocol can be fully implemented and what, if any, mitigations can be agreed to reduce economic, political and social disruption associated with the TCA.

Conclusion

1. The AERA Committee has identified multiple factors cited by DAERA and MEABC that contributed to the decision to withdraw staff from undertaking checks on goods entering Larne and Belfast ports on a temporary basis on 1 February 2021.
2. The primary driver, as explained by officials, was to protect the health and well-being of staff working at POE who were undertaking Protocol-related checks in the context of perceived risk(s) to their security.
3. The concerns for staff safety arose following the emergence of graffiti containing threatening messages in the vicinity of POE and an increase in reports of other intimidating behaviour over the weekend 30-31 January 2021.
4. These concerns were compounded by the belief of some senior individuals that paramilitaries were involved in these activities, based on information provided to them by grassroots contacts.
5. The PSNI provided officials at all stakeholder organisations with consistent and regular verbal assurances that they considered the risk to port staff to be low and that there was no information to substantiate the reports of paramilitary involvement.
6. However, some decision-makers expressed doubt, and concern, about senior PSNI officers' understanding of the risks and supported the decision for staff withdrawal based largely on the reports they had received from their network of contacts.
7. It is therefore considered that there was limited justification for the temporary withdrawal of DAERA and MEABC staff from undertaking SPS checks on 1 February 2021.
8. Some organisations with responsibility for staff at POE took a different approach, retaining staff in situ and continuing with SPS checks, depending on local context and consideration of PSNI advice.

9. The Committee identified several issues related to a letter sent by the MEABC CEO to the Cabinet Office on 30 January 2021 that highlighted security risks to staff at Larne Port in addition to other challenges associated with the Protocol. The Committee believes that this letter should have been disclosed immediately upon its request for information and that some of the inconsistencies in the evidence provided by MEABC officials raise questions about the credibility of actions pertaining to this correspondence.

Recommendations

1. Following completion of its investigation into the decision to withdraw staff temporarily from undertaking SPS checks at POE on 1 February 2021, the AERA Committee has identified the following recommendations for consideration by relevant stakeholders:
 - **Recommendation 1:** Any staff member who was stood down and/or suspended from undertaking SPS checks during the time period under investigation should be informed by their employer that the PSNI's consideration was that the risk to their safety was low and that they had no information to substantiate paramilitary involvement in the activities reported during this time
 - **Recommendation 2:** The identity and details of grassroots contacts that provide information to senior officials should be disclosed fully to law enforcement agencies, as required, in order to ensure that relevant authorities have comprehensive information to enable them to interrogate the veracity of claims/purported threats
 - **Recommendation 3:** Officials at MEABC should correspond with the Cabinet Office and clarify in writing that the PSNI's assessment of the risk to staff at POE as at 30 January 2021 was low and that the PSNI had no information at the time, nor has it received any since, to substantiate paramilitary involvement
 - **Recommendation 4:** The risk management processes at DAERA and MEABC should be reviewed to identify any learning with regards the documenting of risks to port staff during the period 21 January to 4 February 2021

Appendix 1 – Points of Issue with MEABC Evidence about Cabinet Office Letter

Appropriateness of Sending Correspondence

1. The Committee questioned Ms Donaghy on numerous occasions about her rationale for sending the letter and whether she was supported by colleagues in doing so. Ms Donaghy vociferously defended her action and authority to issue the correspondence, explaining that she had a duty to raise concerns about the challenges of implementing the Protocol both in her role as CEO of MEABC and as Chairperson of the EU Exit Task and Finish Group.
2. It is not for the Committee to determine whether it was appropriate for Ms Donaghy to send the letter or whether she had ostensible authority to communicate her concerns directly to the Cabinet Office. Nevertheless, the Committee notes the following in relation to issuing of the correspondence:
 - The information regarding on whose behalf Ms Donaghy wrote the letter changed throughout the course of the investigation, from that which was initially provided:
 - When providing oral evidence to the Committee on 22 April 2021 Ms Donaghy stated: *“I emphasise that I wrote the letter to the Cabinet Office official in my role as a senior national representative of SOLACE.....That letter is nothing to do with the decision that was made by Mid and East Antrim Borough Council”*
 - In documentary evidence submitted to the Committee on 4 May 2021 Ms Donaghy explained that she had composed the letter in a dual role as CEO of MEABC and as the Chairperson of the SOLACE EU Exit Task & Finish Group: *“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 [the Cabinet Office] on operational matters. The dual role was clearly defined in the opening paragraph of the letter.”*

This followed questioning from the Committee as to why Ms Donaghy had used MEABC headed paper to compose the letter.

- When attending to give oral evidence to the Committee on 6 May 2021 Ms Donaghy re-affirmed that she wrote the letter in a dual capacity, *“Writing the letter in a dual role allowed me, as chair of the EU exit task and finish working group, to draw on my first-hand experience at Larne port as chief executive of Mid and East Antrim Borough Council”* and this was further reiterated by Ms Donaghy in a letter to answer outstanding questions from the Committee that was sent on 11 June 2021.
- Ms Donaghy did not seek agreement from attendees at the EU Exit Task and Finish Group meeting on 28 January 2021 to send the letter and this was not an agreed action arising from the meeting
- The current Chairperson of SOLACE NI wrote to the Committee on 5 May 2021 explaining that *“the letter sent to the Cabinet Office was written by Ms Donaghy, Chief Executive of Mid and East Antrim Borough Council and was not sent on behalf of, or approved by, SOLACE”*
- In further correspondence received on 1 June 2021, the Chairperson of SOLACE NI stated: *“Solace would confirm that there would have been no issue with Ms Donaghy corresponding with the Cabinet Office had the contents of the letter been restricted to the operational issues which had been identified and discussed by Solace NI and the EU Task and Finish Working Group. However, those parts of the letter which are perceived to be “political” in nature have presented difficulties for other Council Chief Executives.”*
- While Ms Donaghy notified Mr Poots on 1 February 2021 that she had sent the correspondence to Mr Threlfall *“as Mid and East Antrim Borough Council Chief Executive”*, there is no evidence that Ms Donaghy informed SOLACE NI officially that she had sent the letter

- MEABC representatives explained on numerous occasions that the correspondence sent to the Cabinet Office was confidential and that it was not considered as part of the decision-making to withdraw staff. Ms Donaghy cited the confidentiality of the correspondence as a key reason why the letter was not initially disclosed to the Committee.

However, through information that came to light via an FOI request from a local media outlet in the late stages of the Committee's investigation, it transpires that Ms Donaghy notified a number of elected representatives from a single political party on 1 February 2021 via email that she had sent the letter and attached a copy of the correspondence. This included three MPs (Sammy Wilson, Ian Paisley and Sir Jeffrey Donaldson), Edwin Poots, Gordon Lyons, Cllr Greg McKeen and Mayor Philip Johnston. Further, Ms Donaghy shared the letter with Mrs Arlene Foster on 2 February 2021.

While Ms Donaghy provided the Committee with a rationale for sharing the letter with these persons, the fact that it was sent to numerous individuals contradicts the stated assertions that the letter was confidential and raises further uncertainties about why the correspondence was not provided to the Committee immediately upon its request for information.

The Committee could also not identify a reasonable justification why the letter was shared with elected representatives from only one political party and considered that, given the serious and cross-cutting nature of the issues therein, it would have been reasonable to make **all** elected representatives in MEABC aware of the contents at the time it was sent. The failure to disclose the letter to political representatives in other parties could give rise to a perception of partisanship.

- When appearing before the Committee Cllr Johnston, then Mayor of MEABC, intimated that he had not seen the Cabinet Office letter and explained that it was not part of the council's deliberations regarding the withdrawal of staff: *"We were not presented with the letter, we were not briefed on the letter, and we were not told about the letter."*

However, it is evident from the documentation released via the FOI request that Cllr Johnston had been sent a copy of the letter via email at 6.06pm on 1 February 2021 prior to the scheduled Full Council Meeting.

Concerns Raised Regarding Evidence Provided by MEABC

3. In the course of carrying out its investigation the Committee team was contacted by an individual MEABC councillor and SOLACE NI who raised concerns and some points of clarification about evidence provided by Ms Donaghy in relation to a paper submitted to the Committee on 4 May 2021 and an oral briefing two days later.
4. In the paper and oral evidence session, Ms Donaghy explained that the correspondence sent to the Cabinet Office on 30 January 2021 had been brought to an MEABC Full Council Meeting on 4 May 2021 and it had been retrospectively ratified by councillors on a unanimous, cross-party basis.
5. Further, it is indicated in the written submission that the CEO of BCC had written in support of correspondence sent on behalf of the EU Exit Task and Finish Group: *“I am also aware of the SOLACE correspondence sent by Anne Donaghy, which I am in agreement with”* and Ms Donaghy explained in her oral briefing that the Cabinet Office letter had been shared with the SOLACE Chairperson.
6. The Committee was advised of the following:
 - That MEABC councillors had received the Cabinet Office letter on the afternoon of the scheduled Full Council meeting, had noted the document and that it was not reviewed as a specific agenda item
 - The statement of support from the BCC CEO referred to a letter sent to the Food Standards Agency, and not the correspondence to the Cabinet Office
 - The Cabinet Office letter was shared with the SOLACE Chairperson on 23 April 2021

Appendix 2 - Majority Committee View on Minority Group Issues

1. An outline of issues raised by a minority group of Committee Members with the investigation report is included at Appendix 3 as an Addendum.
2. The majority of Committee Members consider that some of the issues highlighted in the Addendum fall outside the scope of the agreed Terms of Reference and timeframe under investigation, particularly paragraphs five, six and 19-21.
3. Further, several of the points do not reflect the considered view of the majority of Committee Members in terms of the evidence that was presented over the course of the investigation.

Appendix 3 - Report Addendum – Issues Raised by Minority Group of Members

1. Three Members of the AERA Committee formally highlighted several issues with the investigation report that was agreed by the majority of Members, which are set out below:

Cabinet Office Letter 30 January 2021

2. Throughout the course of the investigation there was significant attention given to the correspondence sent by Ms Donaghy to the UK Cabinet Office on 30 January.
3. This letter was not shared with MEABC councillors and it was explained on numerous occasions by MEABC officials that it played no role in their decision to withdraw staff from undertaking SPS checks at Larne Port. Further, much of the information included in the letter was relayed verbally to elected representatives at MEABC on 1 February 2021.
4. Therefore it is considered that the amount of focus given to this correspondence was unnecessary and, in general, there was disproportionate scrutiny of the actions of MEABC during the investigation.

Actions Taken by DAERA to Mitigate Risk

5. It is important to reflect the actions taken by officials at DAERA to mitigate the potential threat to staff after it developed its own risk assessment following receipt of the PSNI's written threat assessment on 4 February 2021.
6. Some of the measures that were put in place include:
 - Development of site-specific risk assessments for all facilities accommodating DAERA staff at Belfast and Larne Ports
 - Provision by the PSNI of crime prevention and personal security advice for staff
 - Erection of physical screens to prevent any potential recording/identification of staff vehicles at POE

Responsibility of DAERA and MEABC to Protect Staff

7. The Committee heard repeatedly from officials at DAERA and MEABC about their obligations as responsible employers to protect the health and well-being of staff and it is important to recognise the authority of these organisations to take action as they deemed necessary to protect their employees, including withdrawing them from undertaking SPS checks.
8. It should also be noted that, based on information provided to the Committee, no major Trade Union challenged the decision to withdraw staff.

Ministerial Action

9. As outlined in the Committee's report, the DAERA Minister, Mr Poots, became increasingly concerned about the welfare of staff working at POE over the course of the weekend 30 to 31 January 2021 based on information he received from various sources.
10. Mr Poots liaised with senior officials at DAERA, MEABC and BCC to highlight his concerns and to ensure that these individuals were cognisant of, and fully understood, the severity and implications of the potential risks.
11. The Minister subsequently made a robust request for DAERA staff to be withdrawn as a precautionary measure to protect staff from harm and any potential security threat.

Confidentiality of Sources

12. There is no obligation on elected representatives to disclose the identity of source(s) that provide them with information.
13. It is necessary, on occasion, to maintain confidentiality of contact(s) in order to avoid any potential security risk for them and to preserve, strengthen and ensure credibility of long-standing relationships.

Disconnect within PSNI

14. There was evidence of PSNI officers operating on the ground at POE informing port workers that there were threat(s) to their safety and that they should be wary. These

concerns were communicated through management channels to senior decision makers and were an important consideration in the decision to withdraw staff on 1 February 2021.

15. However, senior PSNI officers were not aware of these reports/communications for whatever reason and consistently communicated that they assessed the risk to be low, demonstrating a disconnect between senior PSNI officials and officers at an operational level. It is unclear how the PSNI determined that the risk to staff was low.

Involvement of the Intelligence Service

16. The PSNI gave evidence that indicated that they required input from the intelligence service to develop and corroborate their written threat assessment that was issued on 4 February 2021.

17. It is unclear if the PSNI had been liaising with the intelligence service prior to this and if not, how they were able to provide assurance to stakeholders that the threat to staff at POE was low and that the reports of paramilitary involvement were uncorroborated.

Supply of Food/Goods to NI

18. The temporary suspension of SPS checks at Belfast and Larne Ports between 1 and 10 February 2021 in no way compromised the flow of food and goods from GB into NI and no delays in supply chains were reported as a result of the decision.

Tensions Regarding the Protocol

19. Significant discontent started to manifest in some quarters of the PUL community at the time the decision was made to withdraw staff as the operational consequences of the Protocol became clear.

20. There was a strong sense of frustration building that the Protocol had introduced barriers between GB and NI thereby creating “a border down the Irish Sea.” This led to feelings of frustration and anger in some communities that could easily have precipitated a violent reaction. It was in this context that the decision was taken to stand staff down from undertaking SPS checks.

21. The tensions and frustration associated with the Protocol have intensified in the months following the return of staff with violent demonstrations and organised protests taking place across NI. Senior political representatives of the PUL community have robustly argued for the urgent reform and removal of the Protocol and continue to engage with stakeholders at the UK Government and the EU in order to facilitate this.

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