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Dear Michael

TEO COMMITTEE – UPDATE ON EU EXIT MATTERS – SEPTEMBER 2021

Junior Ministers are due to meet with the Committee on 29 September. The TEO Committee has requested a written briefing prior to this meeting. The attached paper provides an update covering the period up to 15 September 2021.

Yours sincerely



Departmental Assembly Liaison Officer

COMMITTEE FOR THE EXECUTIVE OFFICE UPDATE ON EU EXIT MATTERS

This paper provides an update to the TEO Committee on EU Exit matters as they stand at 15 September.

1. OPERATIONAL READINESS

The UK Government published a Command Paper on the Protocol on 21 July, in response to which the European Commission paused the legal action that had commenced following the UK Government's unilateral extension of grace periods in March 2021. The EU has not yet issued a formal response to the substance of any proposals in the Command paper.

On 26 July the EU published non-papers on Medicines and various SPS issues, which had previously been sent to the UK Government.

On 6 September the UK Government announced that it would unilaterally extend the Protocol grace periods currently in force. The EU responded later that day, stating that while the European Commission reserves its right in respect of infringement proceedings it is not opening any new infringement proceedings for now.

European Commission Vice President Maroš Šefčovič visited Ireland and Northern Ireland from 8-10 September, during which he met with local businesses, representatives of civic society, political party leaders and the First Minister and Junior Minister Kearney.

During this visit the importance of the need for certainty for businesses and for solutions to be simple and affordable was emphasised as was the need for enhanced engagement with both the Executive and our local businesses in the development of potential solutions.

The Executive will continue to regularly consider issues arising from the end of the Transition Period. The Executive agreed that, from this month, relevant papers should be included on the agenda for routine Executive meetings and that there should no longer be a separate meeting of the Executive to consider EU Exit matters.

2. UK/EU Trade and Cooperation Agreement Governance

Meetings of the various Specialised Committees set up under the TCA will meet in forthcoming months. NI Executive representation at these meetings will be undertaken by the relevant NICS Department.

3. JOINT COMMITTEE AND SPECIALISED COMMITTEE

The then-First Minister and deputy First Minister attended a meeting of the Joint Committee on 9 June 2021.

A meeting of the Specialised Committee took place on 19 July 2021. The Executive was represented at the official-level meeting by Tom Reid, Director of EU Future Relations, and Lynsey Moore, Director of EU Division. The meeting took stock of discussions on SPS, medicines, customs, trade and VAT.

There are no meetings of the Joint Committee or Specialised Committee scheduled at present.

4. JOINT CONSULTATIVE WORKING GROUP

A meeting of the Joint Consultative Working Group took place on 14 September 2021. The Executive was represented at this official level meeting, which included a stocktake of the information exchanged between the UK and EU since the previous meeting and a discussion on operational matters.

5. COMMON FRAMEWORKS

Officials are continuing to engage with the UK, Scottish and Welsh governments to ensure the timely delivery of the Common Frameworks programme. A Ministerial meeting to discuss progress on Common Frameworks was held on 8 September attended Junior Minister Kearney MLA; Chloe Smith MP, Minister for the Constitution and Devolution; Angus Robertson MSP, Cabinet Secretary for the Constitution, External Affairs; and Culture and Mick Antoniw MS, Counsel General for Wales. A follow up meeting is currently being scheduled to review progress on resolving the remaining cross cutting issues.

Following discussion at the UKG-DA Common Frameworks Project Board, in the interest of transparency and to allow work on the frameworks to progress, a decision was taken that the requirement for JMC(EN) Ministers to provide provisional confirmation was no longer required. Instead, the endorsement provided by Executive Ministers at the end of the transition period in 2020 is accepted as confirmation of the provisional frameworks. At the 8 July Meeting of the Executive Committee dealing with EU Exit Matters, Ministers noted the change in the confirmation process. Subsequent to this change in process and dependant on resolution of cross cutting issues, it is anticipated that the first batch of approximately 9 Common Frameworks will be sent for scrutiny by the relevant Assembly Committees in the week commencing 27 September; with the remaining 18 submitted for scrutiny as soon thereafter.

In addition to these 27 Frameworks, there are a further three that are still in development/awaiting clearance by respective Departmental Ministers.

In respect of the only TEO Common Framework, officials have been engaging with their Cabinet Office counterparts on the status of the Equal Treatment Legislation Framework. The UKG considered the principles used to assess the necessity to establish a framework and are of the view that their application does not justify the need for a Common Framework. The UKG is also of the view that given the combination of the terms of the Protocol (under which we remain subject to existing EU equal treatment directives (in Annex 1) and related CJEU judgments) and that it would want to determine its own policy and legislation in this area, a Framework Agreement in this area is unnecessary. As a result, First Minister and deputy First Minister have written to Executive colleagues seeking confirmation that they are content to reclassify the proposed Equal Treatment Legislation Framework as no framework required. Confirmation of this proposal will be provided to the Committee in due course.

6. LEGISLATION

EU Exit legislation

The latest monitoring returns from 13 September 2021 indicate there are three Westminster Bills -

- the Environment Bill (a supplementary LCM was agreed by the Executive on 9th September)

- the Professional Qualifications Bill (Committee Stage in the House of Lords completed on 22 June); and
- the Subsidy Control Bill (First Reading in the House of Commons on 30th June), currently in progress and under consideration for legislative consent requirements.

44 Statutory Rules have been identified as required in the post Transition Period.

34 Statutory Instruments (SIs) that cut across devolved matters have been identified as required post Transition Period.

None of this legislation sits with TEO.

EU legislation under the Protocol

Work continues on the development of an EU Legislation Information Tracking System (EULITS) to communicate information to Departments on EU legislation contained in the Protocol. The Discovery phase of the IT project has been completed and the Development phase of the IT process is continuing. The EULITS Cross Departmental Steering Group has provided input in relation to Departmental needs and feedback on the EULITS platform concept.

7. RIGHTS AND DEDICATED MECHANISM

TEO continue to meet at a working-official official level with the ECNI and NIHRC as the dedicated mechanism and the Northern Ireland Office to allow for identification of emerging areas of focus in relation to Article 2, any impacts of UKG activity and any changes that may affect the Executive.

TEO officials provided an update on the work being taken forward to introduce a system to track new EU legislation (EULITS – EU legislation information tracking system).

An awareness raising article was issued across departments on departmental intranets on 21 July.

Further work is required to consider and raise awareness of the commitments arising from Article 2.

8. THE EUROPEAN UNION SETTLEMENT SCHEME

The EU Settlement Scheme (EUSS) closed to new applications on 30 June 2021, by which time there had been 99,820 applications from NI [being received by the deadline](#).

Although there are no definitive figures for the number of EEA citizens here, estimates place the number at up to 100,000.

In line with the Citizens' Rights Agreements, where a person eligible for status under the EUSS has 'reasonable grounds' for missing the 30 June deadline, they will be given a further opportunity to apply. Such circumstances include someone who is isolated, vulnerable or lacking the skills to access the applications process.

The situation for EEA nationals is now complex. Some have status confirmed; others have 'in time' applications for status pending; and yet others still are required to make a late application for status. This level of complexity is difficult for EEA citizens and stakeholders such as employers and service providers to understand and navigate. However, once an application is made the Home Office has confirmed the applicant's rights are protected. This is the case for both pending 'in time' applications and late applications after the deadline.

Officials continue to liaise with the Home Office on the impacts of the EUSS and to keep in close contact with STEP and Advice NI, the local advocacy agencies that provide assistance and advice to EEA citizens applying for status under the Scheme.