

Brexit Committee

Thursday, 10th September, 2020

MEETING OF BREXIT COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Flynn (Chairperson); and
Councillors Baker, Brooks, Canavan,
de Faoite, Ferguson, Gormley, Kyle,
Long, McLaughlin, McMullan, Newton,
Pankhurst and Walsh.

In attendance: Mr. J. Walsh, City Solicitor;
Ms. K. Walsh, Business Research and Development
Manager;
Mr. R. Connelly, Policy, Research and Compliance Officer;
Ms. E. McGoldrick, Democratic Services Officer; and
Mrs. L. McLornan, Democratic Services Officer.

Apologies

Apologies for inability to attend the meeting were reported from Aldermen Haire, Rodgers and Sandford and Councillors Harvey and Magennis.

Minutes

The minutes of the meeting of 13th August were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st September.

Declarations of Interest

No declarations of interest were recorded.

Presentations

Professor David Phinnemore, Queen's University Belfast

The Chairperson welcomed Professor D. Phinnemore, Professor of European Politics at Queen's University Belfast, to the meeting.

Professor Phinnemore provided the Committee with an overview of the Brexit process, and Northern Ireland's position within it so far.

He advised the Committee that the UK had left the EU on 31st January, 2020, having negotiated and signed the Withdrawal Agreement. He explained that a key part of the Withdrawal Agreement was the Northern Ireland Protocol, which was designed to prevent a hard border returning to the island of Ireland.

He advised the Committee that the definitive end date of the transition period was 31st December, 2020. He explained that there were increasing concerns regarding the likelihood of the EU and UK reaching agreement on the post-transition relationship between the bloc and the UK, particularly regarding trade, and that there was the distinct possibility of a “no deal” by the end of that period. He outlined that the main differences between the bloc and the UK Government centred on the idea of a level playing field, governance and state aid. The Committee was reminded that the agreement did require the approval of the European Parliament.

He highlighted, however, that significant developments had taken place over the last few days as a result of the Government’s UK Internal Market Bill which had been published on 9th September.

The Members were advised that the Internal Market Bill, if passed, would override part of the legal obligations within the Withdrawal Agreement and the NI Protocol by allowing a Government Minister to disapply or modify “exit summary declarations” for the movement of goods between Northern Ireland and Great Britain. He pointed out that the Secretary of State for Northern Ireland, the Right Hon. Brandon Lewis, had acknowledged that the provisions relating to the NI Protocol would “break international law in a very specific and limited way”.

He advised the Committee that an Extraordinary UK-EU Joint Committee meeting had taken place earlier that day. He also outlined the UK Government’s legal position in relation to the Internal Market Bill and the Northern Ireland Protocol, whereby the Government had highlighted the fundamental principle of Parliamentary sovereignty. He stated that the last few days, in the aftermath of the announcement of the Internal Market Bill, had marked a significant low point in relations between the EU and the UK since the referendum result of 2016.

The Committee was advised that the NI Protocol would come into force, irrespective of what happened by December 2020, and that the implications for disruption in NI would be greater if there was no free trade agreement in place between the UK and the EU.

In response to a Member’s question, Professor Phinnemore confirmed that a challenge could be brought, meaning that the UK could be called to the Court of Justice of the European Union (CJEU) in Luxembourg. He explained that the jurisdiction of the CJEU extended beyond the transition period for as long as the Protocol was in force with regard to those element of EU law that the UK was committed to implement as part of the Protocol.

A further number of Members sought clarity in relation to the Internal Market Bill.

The Chairperson thanked Professor Phinnemore for his presentation and he retired from the meeting.

Noted.

Mr. Maurice Bullick - Finance Director, Belfast Harbour

The Chairperson welcomed Mr. M. Bullick, Finance Director at Belfast Harbour, to the meeting.

Mr. Bullick presented an overview of Belfast Harbour's operating model, including information on its usage and the development of the Harbour. He explained the Harbour's Business Model, together with the different aspects of the business and advised that the Harbour had its own eco-system with operators within the port.

In respect of Brexit, he explained that Belfast Harbour followed guidance issued by the UK Government, including the Command Paper of May 2020 and the Moving Goods Guidance which had been issued in August 2020.

He stated that, in 2019, around 72% of the overall tonnage levels that went through the port were between Great Britain and Northern Ireland, with 10% trade with the EU and 18% with the rest of the world.

The Committee was advised that, in terms of Brexit, the Harbour's issues centred on the "roll-on, roll-off traffic", that is, freight ferries. He highlighted the large amount of freight traffic which moved between GB and NI, totalling 850,000 freight movements per year. He reported that 550,000 of those moved through Belfast Harbour.

The Members were advised that DAERA had asked for a new inspection facility to check food coming into NI from GB, and that an agreement in principle had been reached in respect of that.

He highlighted to the Committee that there was still quite a bit of uncertainty in terms of the effects of Brexit but that Belfast Harbour would like to see as much free flowing traffic as possible under the NI Protocol.

In response to a Member's question regarding free ports, Mr. Bullick explained there was a government consultation process ongoing in respect of widening the concept of free ports but that he did not believe that there was a direct connection between Brexit and free ports.

In response to a further Member's question, regarding the potential for disruption at the port as a result of Brexit, he advised that additional storage facilities had been constructed to accommodate additional parking for lorries. He added, however, that as all hauliers were required to book onto ferries in advance, it was unlikely that there would be a long queue of lorries waiting to get onto ferries.

The Chairperson then thanked Mr. Bullick for this presentation and he retired from the meeting.

Noted.

Update on Brexit Preparedness (Verbal Update)

The Business Research and Development Manager explained that officers had commenced the process of reviewing the Business Continuity arrangements for each of the Council's critical services and that an update would be submitted to the Committee at its next meeting.

In respect of the previously agreed visits to the Ports, she explained that, in light of Covid-19, officers were currently organising virtual visits to both the Belfast and Dublin Ports. The Members were also advised that DAERA, as the lead authority, continued to work closely with the Councils, central Government departments and other stakeholders to prepare for the implementation of the NI Protocol and that updates in relation to those arrangements would be reported to the Committee.

Noted.

Update on Brexit Legislation

The City Solicitor presented the Committee with an update in respect of the following report:

“1.0 Purpose of Report or Summary of main Issues

The purpose of this report is to update Members on the progress to date of legislation required to deliver Brexit, including the outstanding bills and their respective position in their passage through Parliament.

2.0 Recommendations

Members are asked to note this report.

3.0 Main report

3.1 To date, Parliament has enacted seven Acts associated with the process of exiting the EU:

- **European Union (Withdrawal Agreement) Act 2020**
- **European Union (Withdrawal) Act 2018**
- **Sanctions and Anti-Money Laundering Act 2018**
- **Haulage Permits and Trailer Registration Act 2018**
- **Nuclear Safeguards Act 2018**
- **Taxation (Cross-border Trade) Act 2018**
- **Healthcare (European Economic Area and Switzerland Arrangements) Act 2019.**

Apart from the Withdrawal Agreement Act, the Queen's Speech listed another six Brexit bills: on agriculture, fisheries, immigration, trade, financial services and private international law. There is the 130 clause (and 20 schedule) environment bill developed in Defra under Michael Gove which is Brexit related.

3.2 A brief summary of all of the outstanding bills and their respective position in their passage through Parliament is contained in the table below.

Title of Bill / Act	Purpose	Latest event
<p>Agriculture Bill Link to Bill</p>	<p>The UK left the EU's Common Agricultural Policy (CAP) on exiting the EU on 30 January 2020.</p> <p>The <i>Direct Payments to Farmers (Legislative Continuity) Act 2020</i> continues direct payments to farmers across the UK. Payments are based on the amount of land they farm. These payments are like those paid under the CAP for 2020.</p> <p>The Agriculture Bill contains arrangements for future agricultural support.</p> <p>There will be a new approach to farm support in England from 2021. It will include payment to farmers for 'public goods' such as environmental or animal welfare improvements. Ministers will also be required to consider the need to encourage food production and ensure food security.</p> <p>Concern has been expressed that the <i>Agriculture Bill</i> contains no commitment that food and animal welfare standards will not be reduced in future trade deals. The Bill does contain provisions to secure compliance with the WTO Agreement on Agriculture.</p>	<p>Report Stage - House of Lords (date to be announced)</p>

<p>Fisheries Bill Link to Bill</p>	<p>From 1 January 2021 the UK will cease to be part of the EU Common Fisheries Policy (CFP). It will become an independent coastal state and fully responsible for managing fisheries in the UK's Exclusive Economic Zone.</p> <p>The <i>Fisheries Bill</i> gives the Secretary of State the ability to set and distribute fishing opportunities in UK waters. It also revokes the automatic right of access to UK waters of EU vessels.</p> <p>The UK and EU aim to reach an agreement on fisheries before 1 July 2020. So far negotiations have not reconciled their positions.</p>	<p>2nd Reading at House of Commons on 1 Sep 20</p>
<p>Trade Bill Link to Bill</p>	<p>This Bill aims to provide continuity for UK trade relations at the end of the transition period.</p> <p>It would allow the UK to use secondary legislation to 'roll over' trade relations with countries the EU already has a trade agreement with.</p> <p>The Bill would also establish a UK Trade Remedies Authority. This would take over the EU's current function to act against unfair competition from 'dumped' goods, imported at artificially low prices. It would also enable Her Majesty's Revenue and Customs to seek and share trade-related information.</p>	<p>2nd Reading at House of Lords on 8 Sep 20</p>

<p>Immigration Bill Social Security Co-ordination (EU Withdrawal) Bill</p> <p>Link to Bill</p>	<p>To replace the previous Immigration Bill which fell on prorogation of Parliament in October 2019, to end to free movement in UK law, to confirm the UK's commitments under the EU Settlement Scheme and to enable the delivery of a new Australian-style points-based immigration system from 2021</p> <p>This Bill would repeal the free movement rights of EU, EEA and Swiss citizens in the UK. It would protect Irish citizens' existing immigration rights.</p> <p>The legislation would also allow retained EU law on social security co-ordination to be modified by regulations. The Government says this will be necessary, 'whether the UK has a future agreement with the EU at the end of the transition period or not.'</p>	<p>Committee Stage at House of Lords on 7 Sep 20</p>
<p>Private International Law (Implementation of Agreements) Bill</p> <p>Link to Bill</p>	<p>To establish a UK framework for implementing international agreements that ensure the continuity of clear and effective legal rules agreed between different countries concerning international legal disputes and access justice, including 1996 Hague Convention, 2005 Hague Convention and 2007 Hague Convention</p>	<p>2nd Reading House of Commons on 2 Sep 2020</p>
<p>Financial Services Bill</p> <p>Link to Bill</p>	<p>To replace the Financial Services (Implementation of Legislation) Bill, which fell on prorogation of Parliament in October 2019. It's purpose is to ensure that the UK maintains remains open to international financial services markets after Brexit, to simplify the process governing sale of overseas investment funds in the UK, to implement the Basel standards strengthening the regulation of global banks in</p>	<p>To be decided</p>

	<p>line with G20 commitments, building on existing Brexit legislation for financial services.</p> <p>Most financial services regulation is currently done at the EU level. The <i>Financial Services Bill</i> enables the Treasury to make corresponding or similar provisions in UK law to upcoming EU financial services legislation.</p> <p>If the transition period ends with no deal, without this Bill, there will be no mechanism in UK law through which financial services regulation can be updated.</p> <p>Financial services legislation was announced in the December 2019 Queen's Speech but has not yet been introduced.</p>	
<p><i>Animal Welfare (Sentencing and Recognition of Sentience) Bill</i> Link to Bill</p>	<p>EU Law recognises animals as sentient beings. Before the 2019 General Election, the <u><i>Animal Welfare (Sentencing) Bill 2017-19</i></u>, aimed at increasing sentences for animal cruelty did not complete its parliamentary stages.</p> <p>The Queen's Speech in December 2019 announced the intention to introduce these measures in animal welfare legislation.</p>	
<p>Environment Bill Link to Bill</p>	<p>To put the targets in the government's 25-year plan into law, and sets up a new Office for Environmental Protection with oversight and enforcement powers, designed to fill what environmental groups call the 'governance</p>	

	<p>gap’.</p> <p>This is a key part of the post-Brexit supervision machinery – and may be important in reassuring the EU of the UK’s commitments to maintain standards.</p> <p>Part 1 of the Bill, on environmental governance and principles, stems from a draft <i>Environment (Principles and Governance) Bill</i>. This was published in December 2018.</p> <p>The draft Bill was based on an amendment added into the <i>EU (Withdrawal) Act 2018</i>. The amendment addressed concerns about a perceived loss of established environmental principles and EU governance mechanisms following Brexit.</p>	
--	---	--

The devolution structures for Scotland, Wales and Northern Ireland all intersect and interact with EU law and EU competence. This adds an additional layer of complexity to the domestic implementation of Brexit. Though UK international relations are a reserved matter, with the government negotiating on behalf of the whole of the UK, effective engagement with the devolved administrations is key to the success of the domestic legislative project.

3.3 Pipeline of Brexit Statutory Instruments (SIs) (secondary legislation)

One common theme of all of this legislation is the broad powers that the government plans to take in order to carry out policy changes. These are framework bills, which leave a lot of the detail out – to be filled in by secondary legislation.

The government’s aim is to introduce legislation necessary to ensure an orderly transition in UK law, to reflect the adoption

of retained EU law, and to correct laws where necessary to secure their continued operation as part of the domestic regime after Implementation completion day. Hundreds of Brexit SIs have been introduced under the enabling powers in the Withdrawal Act and other Brexit-related legislation. However, the project is far from complete.

The government has confirmed plans to lay approximately 250-300 more Brexit SIs between September and December 2020. Approximately half of the remaining Brexit SIs will be subject to the affirmative procedure, with volumes 'likely to be concentrated' in September and October 2020. The rest will be laid under the negative procedure (with proposed negative Brexit SIs subject to the sifting process).

Government departments are being asked to prioritise only 'critical legislation' between September and December 2020, though estimates for non-Brexit related legislation cannot be provided with certainty due to coronavirus.

3.4 Financial & Resource Implications

There are no financial or resource implications relating to this report.

Equality or Good Relations Implications/Rural Needs Assessment

There are no implications relating to this report.”

The Committee noted the contents of the report.

Issue Raised in Advance by a Member

UK Government Commitment to the NI Protocol – Councillor Flynn to raise

Moved by the Chairperson, Councillor Flynn,
Seconded by Councillor De Faoite

“This Council notes with concern that provisions held within the recently published “Internal Market Bill” seek to undermine the agreed protocol on Ireland and Northern Ireland. This protocol guarantees that, whatever the circumstances post the end of the transition period, that there will be no hard border between Ireland and Northern Ireland, it protects provisions held within the Good Friday Agreement, preserves North-South cooperation and maintains the all-island economy.

This Council further notes with concern that comments made recently by the Secretary of State for Northern Ireland outlines the Government’s ambition to break international law as set out within the Withdrawal Agreement.

This Council will write to the Secretary of State for Northern Ireland, the British Prime Minister Boris Johnson, the EU Chief Negotiator Michel Barnier, and the Taoiseach Micheál Martin, to reiterate this Council's support for the Irish protocol and furthermore express our concern and urge the British Government to honour its commitments to the people of Northern Ireland, and to the EU and to ensure the full implementation of the agreed protocol, and prioritise peace and stability on the Island of Ireland.

Furthermore this Council will write to Speaker of the House of Representatives, Nancy Pelosi, Chair of the Ways and Means Committee, Representative Richard Neal, and US Representative Brendan Boyle to thank them on behalf of the citizens of Belfast on their public stance in relation to their intention to vote down any trade deal with the British Government if they break the terms of the Good Friday Agreement and to ask them to remain steadfast in their resolve to protect the rights of the citizens of this island and to continue to protect the Good Friday Agreement in all of its parts."

On a vote, ten Members voted for the proposal and four against and it was declared carried.

Chairperson