Brexit Committee

Thursday, 12th August, 2021

MEETING OF THE MEMBERS OF THE BREXIT COMMITTEE
HELD REMOTELY VIA MICROSOFT TEAMS

Members present:	Councillor Baker (Chairperson); and Alderman Rodgers; and Councillors Brooks, Canavan, de Faoite, Flynn, Gormley, Hanvey, Kelly, Kyle, McKeown, Spratt and Walsh.
In attendance:	Mrs. S. Toland, Director of City Services; Mr. J. Greer, Director of Economic Development; Mrs. N. Largey, Divisional Solicitor; Mr. J. Hanna, Senior Democratic Services Officer; Mrs. K. McCrum, Democratic Services Officer; and Ms. C. Donnelly, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported on behalf of Aldermen Haire and Sandford, and Councillor Long.

Minutes

The minutes of the meeting of 17th May 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 June.

Declarations of Interest

No declarations of interest were reported.

Update on NI Protocol

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

"1.0 Purpose of Report or Summary of main Issues

To update members following a briefing given by the Minster of State for N Ireland, Robin Walker, on the British Government position on the NI Protocol and future negotiations with the EU.

2.0 Recommendations

The Members of the Committee are requested to recommend that, in accordance with the Council decision of 4th May 2021, the Chief Executive exercise her delegated authority to note the contents of the report and the Command Paper.

3.0 Main Report

Background

The British Government has taken the view that the NI Protocol is not working in its current form and has indicated that it wishes to work in partnership with the EU to make significant changes which it asserts will deliver more effectively on the core objectives of that agreement. The asserted basis for a revised arrangement is to enable goods to circulate more freely within the UK customs territory whilst ensuring compliance in respect of standards for those goods that are destined for the EU. The Government contend that this can be achieved without infrastructure or checks between N Ireland and the Republic of Ireland and thus measures would remain consistent with the Good Friday Agreement.

Key Issues

The Government contends that the NI Protocol is not functioning as it should to the extent that it would warrant triggering Article 16. The command paper sets out that the view that the Protocol has had profound impacts economically, socially, politically and commercially, noting that these are felt in the context of the current grace period with mitigations in place. To address these issues the paper sets out a position advocating for significant changes to be made to the Protocol that would achieve 'a new balance'.

The proposals principally focus on trade arrangements, thus there are no changes sought in the status of the Common Travel Area, the Single Electricity Market or Human Rights.

The key elements of the Command Paper are;

1. **A new system of trader declarations regarding goods moving from the UK to Northern Ireland with registration required and transparency of supply chains. The UK would undertake to enforce such a scheme.**
2. **The system referred to at 1 would apply to sanitary and photosanitary (agri-food) goods with the UK undertaking to enforce a**

requirement for such goods to comply with EU standards if destined for the Republic of Ireland.

3. **The current system dealing with live animals would be retained on the basis that they pose a greater risk.**
4. **A regime would be created for biosecurity in terms of the movement of certain plants but excepting seeds and plants destined for garden centres.**
5. **Greater flexibility in setting VAT and excise rates with safeguards that will prevent significant divergence on the island of Ireland.**
6. **A dual regulatory regime as regards product safety enabling goods compliant with either UK or EU standards to circulate in N Ireland. The UK would undertake to put in place legislation to provide for penalties on UK traders placing non-compliant goods on the EU market.**
7. **The Command paper takes the view that governance arrangements on the operation of the Protocol are inadequate. It proposes that these are reworked. In particular it takes the view that jurisdiction of the EU and the Court of Justice are unconstitutional and at odds with international law. It is proposed that an alternative treaty arrangement is put in place for dispute resolution.**

Financial & Resource Implications

None."

Equality or Good Relations Implications/Rural Needs Assessment

Not Applicable."

The Members of the Committee recommended that, in accordance with the Council decision of 4th May, the Chief Executive exercise her delegated authority to note the content of the report.

Legal Challenge to the NI Protocol

The Divisional Solicitor advised the Members of the Committee that update on the Judicial Review proceedings which had been lodged by a number of elected representatives on the basis that the NI protocol was contrary to the Act of Union and would affect the constitutional position of Northern Ireland.

She reported that the Court held that, whilst it was clearly a matter of public controversy but that the making of treaties and international foreign affairs were matters for government and not suitable for Judicial Review proceedings. The Court also found that it was within the margin of appreciation for the UK Government enter into the Agreement and put the various provisions in place, and therefore found no issue with how the UK Government had acted. She added that the Court had dismissed all the grounds of challenge and that an appeal had been lodged, the proceedings of which would be heard in the autumn.

The Members of the Committee recommended that, in accordance with the Council decision of 4th May, the Chief Executive exercise her delegated authority to note the content of the report.

Shared Prosperity Fund Update

The Director of Economic Development presented the Committee with an update in respect of the following report:

"1.0 Purpose of Report or Summary of main Issues

To provide Members with an update in relation to EU Replacement Funding, and the emerging issues which need to be considered as a council and the wider local government sector.

2.0 Recommendations

The Members of the Committee are requested to recommend that, in accordance with the Council decision of 4th May 2021, the Chief Executive exercise her delegated authority, to:

- **note the update on current issues set out below and in Appendix 1 regarding the potential impacts of the Shared Prosperity Fund on the Council and local government sector;**
- **agree that SOLACE NI are approached to commission Ekosgen to undertake a further position piece in relation to the Shared Prosperity Fund. This further work should expand on the earlier**

lobbying piece which Ekosgen produced, and set out the basis for local government to have a greater role in the future management and delivery of the Shared Prosperity Fund; and

- **agree that officers continue to engage with partners across the city, delivery organisations, central government colleagues and the new MCHLG offices to assess the likely impacts of the Shared Prosperity Fund, ensuring that the council and sectoral position is suitably articulated.**

3.0 Main report

Background

Members will be aware of the UK government plans to replace European Union 'structural funds' with a new Shared Prosperity Fund, due to launch in April 2022. As a member of the EU, the UK received substantial transfers from the EU budget as structural funds. These formed a central part of the EU commitment to support sustainable development and reduce economic disparities between and within member states, and were used to fund employment and skills programmes, research and innovation, and direct support for business and infrastructure.

The two main structural funds that have operated in Northern Ireland are the European Regional Development Fund (ERDF) and the European Social Fund (ESF). The two funds have slightly different profiles:

- **The ERDF supported investment in innovation and research, information technology, small and medium-sized enterprises, and the promotion of a low-carbon economy. Spending under the ERDF in the UK was split roughly equally between capital (investment) and resource (programme) expenditure.**

- **The ESF supported employment-related projects and vocational skills training. Including support for programmes to support young people who are not in education, employment or training. ESF spending was categorised almost entirely as resource spending.**

In 2014–20, the EU's last seven-year budget cycle, the UK was allocated a total of €11 billion from these two funds. The three devolved nations received a larger amount of funding per person than England. From the ERDF and ESF combined in the 2014–20 cycle, England was allocated €7.1bn, or €130 per person; Scotland €940 million, or €180 per person; Northern Ireland €510m, or €280 per person; and Wales €2.4bn, or €780 per person.

During the last EU Funding programme Northern Ireland received in the region of 4.8% of the UK's allocated funding. However, under the recent Community Renewal funding, which has been badged as a pre-cursor to the Shared Prosperity Fund, Northern Ireland received an allocation of around 3% linked to our population figure within the UK. If this approach was to continue with the Shared Prosperity Fund, this would represent a significant loss in terms of replacement funding. This is an area that we need to be well-positioned as a council and sector to work with colleagues in the regional government departments, to argue that there should be no reduction to the previous funding levels through the introduction of the Shared Prosperity Fund.

<u>The European Social Fund (ESF)</u>
The European Social Fund (ESF) will come to an end in 2023. ESF funding is managed by DfE and much of the funding is administered through an open call. The fund provides support for a range of employability support interventions, largely aimed at those who are hardest to help (e.g. economically inactive, long term unemployed) and those that require specific support e.g. disabled individuals.

Over the last four years, 32 ESF projects in Belfast have been resourced to a level of £85million.

The volume of support provided by these organisations – and the significant structural challenges in the Belfast labour market that has been exacerbated by COVID-19 mean that the withdrawal of ESF will have a significant indirect impact on Belfast City Council.

Given our commitment through the Recovery Plan, the work of the Innovation and Inclusive Growth Commission and the recent agreement to establish Labour Market Partnerships to focus on supporting the development of an inclusive economy, any reduction in engagement and support for the most vulnerable groups will make it more challenging to deliver on that commitment. Having said that, officers are of

the view that the current open call approach to addressing these labour market challenges and supporting those groups is not the best way to make an impact and this is borne out by the stubbornly high levels of economic inactivity and unemployment amongst key demographics that have not been impacted by the significant levels of investment to date.

<u>European Social Fund – current status</u>
ESF projects are currently in year 4 of a 4-year funding agreement, with an end date of March 2022. Earlier this year, DfE confirmed that they were going to be able to extend the funding to existing projects for one more year and they began the planning work on the ESF successor fund. In May 2021, DfE subsequently confirmed that they would not be able to undertake the project extension support and that they would have to issue a new call for funding.

<u>Future delivery options for Shared Prosperity Fund</u>
If the UK Government maintains its approach of engaging directly through MCHLG with councils in terms of future delivery of the Shred Prosperity Fund, we will need to consider carefully as a sector whether the capacity exists to take on this role and what the best delivery mechanisms would be to fulfil our own strategic objectives in managing this funding to address local need within our areas.

Members will be aware that Labour Market Partnerships are to be established in each council area. The Partnership is tasked with developing a local plan to address the key employability challenges and resources are allocated to support delivery of targeted interventions. The initial plan for Belfast currently in draft form for discussion with DfC will attract funding of up to £1.4million annually against a range of targeted interventions (overall regional budget is £7million). Going forward, funding will be allocated on a three-year cycle, taking account of the need for longer-term planning on these issues.

The current plan includes a significant investment to support LTU/economically inactive and the intention is to commission this support with input from both the Jobs and Benefits Office (JBO) staff and our employability stakeholder network and this has the potential to create a template for how employability support might be provided for key target groups in the future. However, the scale of investment is significantly smaller than the current ESF budget allocation and will not be able to be used to support all the organisations in the way that the current open call process has been able to do.

While there appears to be limited information available on the shape and scale of the Shared Prosperity Fund, there is an opportunity to engage with MHCLG to explore how the Labour Market Partnerships may become a conduit for targeting resources at a local level to address long-standing employability challenges and support the "levelling up" agenda. The added value of the LMPs is that they have direct departmental support and buy-in from both DfE and DfC and they also have support across other parts of government – including DoJ and DoH.

Each of the Labour Market Partnerships must complete a strategic assessment of the local labour market as part of their action plan development work with DfC and this provides an independent assessment of need against which interventions can be developed or activities commissioned. It is also important to note that, traditionally, DfE has used ESF to fund some apprenticeship delivery.

However, the employability element of the EU funds is only one part of the overall budget commitment. Funds allocated through ERDF and Rural Development Funding will have a more wide-ranging impact on support for businesses as well as rural diversification activities. On ERDF, it is clear that the reductions in funding will also have a significant impact on Invest NI and their ability to support local companies. The scope of the eligible expenditure extends beyond councils and, while we need to present a business case for continued investment from the replacement funds, this is likely to be part of a wider package of delivery, some of which will fall outside of the vires of the council.

For these reasons officers are seeking to engage Eskogen via SOLACE to expand on the earlier lobbying piece which Ekosgen produced, and set out the basis for local government to have a greater role in the future management and delivery of the Shared Prosperity Fund to ensure that the council and sectoral position is suitably articulated

It is envisaged that this position will allow officers continue to engage with partners across the city, delivery organisations, central government colleagues and the new MCHLG offices.

Financial & Resource Implications

None associated with this report.

<u>Equality or Good Relations Implications/Rural Needs Assessment</u>

None associated with this report.

The Members of the Committee recommended that, in accordance with the Council decision of 4th May, the Chief Executive exercise her delegated authority to:

- note the update on current issues set out in the report and in Appendix 1 regarding the potential impacts of the Shared Prosperity Fund on the Council and local government sector;

- agree that SOLACE NI be approached to commission Ekosgen to undertake a further position piece in relation to the Shared Prosperity Fund. This further work should expand on the earlier lobbying piece which Ekosgen had produced, and set out the basis for local government to have a greater role in the future management and delivery of the Shared Prosperity Fund; and

- agree that officers continue to engage with partners across the city, delivery organisations, central government colleagues and the new MCHLG offices to assess the likely impacts of the Shared Prosperity Fund, ensuring that the council and sectoral position is suitably articulated.

<u>Update on Port Health</u>

The Director of City Services reported that the Council, through Solace, was being represented on a board of governance, together with DAERA, to hold discussions around the command paper and garner further understanding with regard to grace period deadlines. She advised the Members that the grace period would most likely be extended, however, negotiations were continuing.

She reported that the EU Audit had taken place at the end of June with EU auditors and DAERA officials and informed the Members that the audit report would not be issued to the UK Government until late August, however, initial feedback regarding the understanding of the complexities with paperwork and processes had been positive.

She advised the Members that Port Health recruitment was ongoing and that retention of staff had been an issue due to the nature of shift working and other positions becoming available within the field of expertise. The Director added that it was estimated that new facilities would be in place in 2023.

The Members of the Committee recommended that, in accordance with the Council decision of 4th May, the Chief Executive exercise her delegated authority to note the content of the report.

Schedule of Meetings 2021

The Chairperson reported to the Members of the Committee that, in order to facilitate in-person Committee meetings from September, the Great Hall was to be used as the venue in the City Hall. However, some conflict had arisen with regard to events which had been booked to use the Great Hall and the Committee schedule.

He advised the Members that an alternative date had been identified for the September meeting of the Brexit Committee or that, alternatively, the meeting could take place on the scheduled date of 9th September, but in remote format.

Following discussion, the Members of the Committee recommended that, in accordance with the Council decision of 4th May, the Chief Executive exercise her delegated authority to hold the September meeting of the Brexit Committee on its scheduled date of 9th September in remote format.

Future of the Brexit Committee

The Divisional Solicitor advised the Committee that this was to be considered at the Party Group Leaders' Forum at its meeting in August, and subsequently, a full report would be presented to the Members of the Brexit Committee at its meeting in September. She asked that the Members of the Committee share their views on the future of the Committee with the City Solicitor in advance of the Party Group Leader meeting or raise them prior to that date with their Party Group Leaders.

Proposal

Moved by Councillor Gormley,
Seconded by Councillor Walsh,

That the remit of the Brexit Committee be widened to include responsibility for both the Shared Island Working Group and the International Relations Framework, which currently is under the remit of City Growth and Regeneration, with the purpose of implementing a new domestic and international relations strategy for the city.

Amendment

Moved by Councillor Flynn,
Seconded by Councillor de Faoite,

That the Committee agrees to defer until the September meeting of the Brexit Committee, following discussion at the Party Group Leaders Forum, the proposal to widen the remit of the Brexit Committee to include responsibility for both the Shared Island Working Group and the International Relations Framework, which currently is under the remit of City Growth and Regeneration, with the purpose of implementing a new domestic and international relations strategy for the city.

The Committee proceeded to vote on the proposal. However, following discussion, the Committee agreed to adjourn for short period to seek advice on the correct procedure.

Following, the recommencement of the meeting, the Senior Democratic Services Officer advised the Committee that the correct procedure was for the Committee to vote firstly on the amendment and, as there had been a procedural error, that the Committee should restart the vote taking the amendment first.

The Committee noted the information which had been provided and, accordingly, proceeded to vote on the amendment.

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

The amendment was put as the substantive motion and passed.

Chairperson