

TABLED PAPER FOR NOTING
PROBATION BOARD FOR NORTHERN IRELAND
BOARD MEETING – 17 AUGUST 2018
BRIEFING NOTE: BREXIT

Background

On 23 June 2016 the United Kingdom voted to leave the European Union. On a turnout of 72.2% of the electorate, 51.9% voted to leave. In Northern Ireland 56% of people voted to remain in the EU. On 29 March 2017 the UK Government invoked Article 50 of the Treaty in the European Union. The UK is thus due to leave the EU on 29 March 2019. I provided a briefing note to the Committee on Friday 2 March 2018 (see attached) and this is an update on that briefing note.

Implications for Department of Justice in Northern Ireland

In April 2018 PBNI hosted a Brexit scenario planning event with senior representatives from DOJ, Forensic Science Northern Ireland, Office of the Lord Chief Justice, Northern Ireland Court Service, Public Prosecution Service, Northern Ireland Prison Service, Police Service of Northern Ireland. The meeting was chaired by DOJ and the purpose was to explore the likely impact in terms of delay and cost to the criminal justice system of a no deal outcome to Brexit.

There are three current possible options that would impact on the criminal justice system in Northern Ireland;

1. A security and justice treaty. This would, in effect, replicate the existing EU measures post Brexit. This is the best possible outcome and is still achievable.
2. No deal. All departments, including the Department of Justice, have been asked to plan for a no deal scenario. It became clear at the workshop that such an outcome would leave many of the EU measures, including the European Arrest Warrant, access to Europol, Eurojust (Judicial Co-operation), information systems such as European Criminal Record Information System (ECRIS), the Schengen Information System (SIS) (an information system that supports external border control and law enforcement co-operation in the Schengen states), the European Investigation Order (an EU legal instrument aimed at speeding up the assistance provided by one country to another in the investigations of crime) and the PRUM Convention under which European member states grant each other access to their automated DNA files, etc.
3. N.I. backstop. The withdrawal agreement published by the EU following the March 2018 council meetings requires a backstop solution for the border between Northern Ireland and Republic of Ireland to apply should a better solution on the Irish border not be agreed

Agenda Item no Tabled in any final deal. The details of this are difficult both practically and politically but are being considered. Paper 104-1/18 (August)

The agencies in attendance concluded that there would be considerable delay and cost implications for all criminal justice agencies in the event of a no deal. Loss of access to criminal records via ECRIS will impact and add delay to a number of processes at the investigation, prosecution, sentencing stages (where a pre-sentence report is required). There was a general view that offenders will exploit the Irish and other EU borders to put themselves out of jurisdictional reach. This could likely apply in both directions and Northern Ireland could become attractive for EU offenders. The ability to extradite offenders who have breached licence conditions will be similarly affected. In conclusion, there were real concerns expressed that a no deal scenario would lead to considerable delays and costs across the CJS with a serious potential to impact adversely on public confidence in the justice system.

PBNI Response

In addition to the provision of papers for the above meeting and subsequent submission of papers to the Department of Justice, I attended meetings at DOJ in April, May and June. Brexit issues were discussed at the North South Probation Senior Management Team meeting on 28/29 June 2018. While there have been no formal meetings of the Ad-hoc PBNI Committee (comprising Michael Cox, Catherine Teggart and Gail McGreevy) since the last briefing, I have ensured that all relevant documents were circulated to the Committee and got advice when required.

I attended the launch of a report prepared by the Association of Criminal Justice Research and Development (ACJRD) on the Brexit impact on criminal justice co-operation in Ireland which was launched in Dublin in April 2018 and is available for members should they require access to it. On 22 June 2018 I made the final submission to the DOJ Planning Group and identified that the potential threat to PBNI of a no deal scenario was **severe**; I quoted the Chief Constable of PSNI, George Hamilton, who stated earlier this year that “non participation in the European Arrest Warrant Scheme was probably the biggest practical vulnerability facing law enforcement in Northern Ireland post Brexit”. He went on to tell the House of Lords Committee there would be very real operational consequences if there are no alternative arrangements in place around exchange of material and people by way of a European Arrest Warrant.

Action

The Committee is asked to note this briefing report.

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